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THE

SPEECH

OF

JAMES STEPHEN, Esq.

IN THE DEBATE IN THE

HOUSE OF COMMONS,

March 6, 1809,

ON

MR. WHITBREAD'S MOTION

RELATIVE TO THE LATE OVERTURES

OF THE

AMERICAN GOVERNMENT:

WITH

SUPPLEMENTARY REMARKS

ON THE

RECENT ORDER IN COUNCIL.

London:

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THE subject of the following speech, is one which though much discussed in Parliament, and of the highest national importance, is very imperfectly understood by the public at large. The facts which belong to it have been misrepresented in America, as well as in England, in a way calculated to inspire unjust national resentment on the one side of the Atlantic, and popular discontent on the other.

As the chief object of the speech was to correct these misrepresentations, by a dispassionate Appeal to Evidence; and as that evidence, though on the tables, and among the records of Parliament, is not within the reach of ordinary readers; it has been suggested to the Author by several persons of distinguished character and great political judgment, who heard his arguments, that their publication would tend to dissipate dangerous prejudices, to vindicate the justice of our Country in the use of her maritime rights, and to promote the great ends of reconciliation and future harmony with the United States of America. A deference for such suggestions, which seemed to him the more satisfactory, as they came from persons of different political opinions and parties, seconded by his own hopes of utility,—and not a vain opinion that the speech, in point of composition, merits any particular notice,—has led to this publication.

The reader, perhaps, will perceive that information,

rather than ornament, was the speaker's aim, and that he was less anxious to please, than to convince. The style of the speech as printed is, nevertheless, probably superior to that, in which the same thoughts were expressed in the House; the connections of the different topics better preserved; and several accidental omissions, disadvantageous to the general effect, supplied. The author has even, sometimes, ventured to insert in the text, though oftener in the notes, facts or observations which first occurred to him while writing, and which seemed to improve the argument, though he was certain that they formed no part of it when delivered. Such liberties, he understands, are customary. When avowed at least, they can be liable to no fair objection. To give an accurate report of the speech as delivered, would if desirable, be out of his power; for it is a defect in his feeble talents, that he cannot, on occasions important enough to deserve the best preparation, avail himself much, in public speaking, of premeditated language, or even follow closely a studied arrangement. He has written therefore from recollection, aided in some degree by newspaper reports, but not much assisted by any previous notes.

A SPEECH,

&c.

House of Commons,

March, 6, 1809.

Mr. WHITBREAD concluded a long and able Speech with the following Motion:—

"That a humble Address be presented to His Majesty,

"Humbly to represent to His Majesty, that in consequence of certain Decrees made by His Majesty's enemies, contrary to the usages of war and to the rights of Neutral Nations, and also in consequence of the *alleged acquiescence* of Neutral Nations in the said Decrees, His Majesty was advised to issue certain Orders in Council respecting the trade of Neutrals to and from the ports and countries of His Majesty's enemies; And that the said Orders were further enforced by certain Acts passed in the last Session of Parliament.

"But that both in the said Orders, and in the Acts passed thereon, a power was reserved to His Majesty of annulling the same, whenever such revocation should appear expedient.

"That the Congress of the United States of America, alarmed at the dangers to which neutral commerce was exposed by the practical operation of the said Decrees, and by the system then known to be in the contemplation of His Majesty's Government, and actually carried into effect by the said Orders, passed Laws for laying an immediate Embargo on all American Ships and Exports; and that by the operation

of such Laws, all trade of export from the said States into this Kingdom or its Dependencies has been prohibited, and the commercial intercourse of His Majesty's subjects with the said States has been in other respects essentially impeded.

"That in the month of August last, the Minister of the United States, resident at this Court, made to His Majesty's Government an authorized and explicit offer of re-establishing the said intercourse; proposing, that if His Majesty's Orders in Council should be repealed, as far as regarded the United States, the Embargo imposed in the said States should be removed, as far as regarded His Majesty's dominions; and adding, that if His Majesty's Enemies should not rescind their Decrees, the said Embargo should be continued as with respect to them.

"That this offer on the part of the United States appears to us just in principle, and in its tendency highly advantageous to the best interests of this country:—just, inasmuch as it removed all pretence of the acquiescence of the United States in the French Decrees; which acquiescence was the only ground on which any right could accrue to His Majesty to interrupt the innocent commerce of a Neutral Power: and advantageous to Great Britain, inasmuch as, though it should not have produced the repeal of the French Decrees (the avowed purpose of His Majesty's Orders), it would have secured to this Country the exclusive commerce of America, and her alliance against a Power which would thus have been the common enemy of both.

"That we believe and hope that it is still open to His Majesty's Government to renew, on the basis of this proposal, the Commercial Intercourse between this Country and the United States; every interruption of which we consider as manifestly injurious to the interest of both countries, and calculated to assist the designs of our enemies, and to weaken our own resources.

"That we therefore most humbly pray His Majesty to

adopt, without delay, such measures as may best tend to the immediate re-establishment of the commercial intercourse between His Majesty's Dominions and the United States of America; and to bring, by temperate and conciliatory negociation, all other points to a just and amicable conclusion, assuring His Majesty of our firm and invariable support in maintaining against every unjust aggression, and every novel claim, the antient and essential maritime rights of His Majesty's Crown."—

Upon which Mr. STEPHEN rose and spoke to the following effect:

Mr. SPEAKER,

WERE I influenced by a prudent regard to my own credit, rather than by the lively public interest I feel in this important question, I should not now present myself to your notice; for my feeble powers, unequal at all times to a contest with the honourable Gentleman who has just sat down, are more than usually so at present from the effects of bodily indisposition. But as the habits of my life, and the course of my political inquiries, have given me information on the great subject before you, such as is not generally possessed, I think it a duty to offer some observations upon it which appear to me to deserve the serious attention of the house.

Though I differ widely from the honourable Gentleman, not only in his practical conclusion, but as to many of the most important premises of fact from which he has reasoned, there is much in his very able and eloquent speech to which I sincerely assent.

I concur especially, and with my whole heart, in those moral principles of policy for which he contends; and for which he has cited the authority of the illustrious Washington in his farewell advice to his country. The honourable Gentleman professed to address himself here to those Members whom he described as advocates for morality; but I hope, Sir, this de-

scription is as comprehensive as the house itself, and that there is not a man among us who would consent that the country, in its conduct to foreign states, should consult its interest, at the expense of its moral duties. For my part, I beg him to believe, that I regard the observance of justice and good faith as essential to the welfare as well as to the honour of our country, and that if I support any measures contrary to those duties, it is the fault of my judgment alone in the views that I take of the moral merits of the case.

The honourable Gentleman apprehends that improper motives will be imputed to him, as if he were an enemy of his country's rights, because he defends the cause of foreign states, with whom we have disputes, when he thinks that they have justice on their side. Far be it from me, Sir, to arraign such upright and manly conduct. On the contrary, I honour him for it, nor do I believe that there is in this house, or in the country at large, a heart of a truer British texture than his own. When I find my views of this great subject so opposite to his and to those of a noble Lord who brought forward a similar motion in another place, one who adorns the aristocracy as the honourable Gentleman the democracy of England, instead of ascribing the difference between us to wrong motives on their part, I feel myself called on to examine well the foundations of my own opinions.

But I am relieved from all difficulties which a respect for their judgment might create, when I attend to the premises from which they reason; because it is evident that they have both adopted the most erroneous conceptions of the case in point of fact; conceptions so diametrically opposite to the truth, that by correcting these I may fairly entitle myself to range their opinions on my own side of the question.

To the general principle, that we ought to adopt a conciliatory policy towards America, I am far indeed from objecting.—The honourable Gentleman says that America is not

popular in this country; and that with a large description of persons among us, a war with the United States is an object of desire, rather than aversion. Sir, I hope and believe that this opinion is unfounded; and lament that it should have been declared in this house; for such language cannot fail, when reported on the other side of the Atlantic, to have an effect injurious to the cause of peace and conciliation. If there are men among us so insensible to all the sympathies arising from a common extraction, from unity of language, manners and religion, and from a common attachment to the principles of civil liberty, as to desire a quarrel with our brethren of the United States of America, I trust they are but few; and I beg the honourable Gentleman at least to believe that I am not one of their number. I deprecate a war with that country as much as he can possibly do. I regard such an event as one which not only to every Englishman, but to every friend of liberty, throughout the world, would be a subject of deep regret, and which the common enemy of all free and independent nations, alone, would have cause to contemplate with pleasure.

To *him* indeed it would be a triumph more acceptable than any that he has yet accomplished either by his fraudulent policy or his arms. He has conquered powerful nations; he has subverted and erected thrones; he has uprooted ancient dynasties; he has perhaps surmounted even those obtacles which an ardent loyalty and *amor patriæ* in the breast of a brave people, lately opposed to his ambition;—but he has one formidable enemy yet to subdue; that animating and generous sentiment of liberty, which he has so grossly outraged and betrayed. The indignation of the friends of freedom in every part of the globe ought to form the firmest bond of union against him: But how fatally would this union be broken, and how would the cause of liberty be disgraced and weakened, if the only two nations on earth still blessed with civil and political freedom, and tolerably safe from his attacks, should,

instead of uniting to resist his further usurpations, unnaturally turn their arms against each other; especially if one of them should range itself under his odious standard! The insanity of popular governments might in such an event be alleged by him as an excuse for his apostacy and usurpation. He might rely on their madness, as now on the imbecility incident to hereditary monarchy, as an apology for his crimes.

Sir, it is in this view, more than from the dread of any evils to which we might be directly exposed from a war with the United States, that I would most anxiously avoid such an event.

For the sake of avoiding it I would sacrifice as much as the honourable Gentleman. Nay, I would sacrifice much more. He indeed would make ruinous concessions, which I would not consent to make; but it is because he does not believe them to be such. He would renounce our belligerent rights; but then he thinks them usurpations: he would waive points of honour; but he supposes them to be unjust and idle cavils: he would abandon our present maritime and commercial position; but he thinks it one that we cannot maintain without ruin. I, on the other hand, would recede from that position; as far as we safely can, for the sake of conciliation with America, though I know it a vantage ground of great importance which the rashness of the enemy has given us. I would waive, not any point of true honour, for I think we are in a situation to yield with dignity all that we can yield with safety; but all proud or punctilious objections, that may oppose a friendly arrangement. I would even recede from the full assertion of our unquestionable maritime rights, except such as are essential to our security and our national existence. In a word, the honourable Gentleman would give for peace with our American brethren diamonds of inestimable value; but it is because he thinks them to be counterfeits and pebbles. I would give a part of the same jewels, though conscious of their real worth.

I cannot concur with him, however, in his present proposition; I cannot consent that we should conciliate America at the expense of rescinding our Orders in Council on the terms proposed by her: because that would be in effect to submit to the utter ruin of our commerce, and, by a necessary consequence, to the loss of our naval ascendancy,—our grand security, under the care of Divine Providence, against the arms of France. Such, as I trust to demonstrate before I sit down, would have been the fatal effects of our closing with the late overture of Mr. Pinckney, according to the meaning which the terms of the overture itself, and the instructions under which it was made, oblige me to ascribe to it.

The honourable Member has complained of the disadvantage under which he comes to the present discussion, from a loss which he and the house have sustained by a late melancholy event*. Deeply, Sir, do I lament with him, that we can no longer be assisted in our deliberations by that eminent civilian, my late learned and honourable friend. Cordially do I concur in the eulogy that you have heard. He was indeed a man of very extraordinary talents and attainments, and must be lamented by all to whom his public professional or private worth was known. It would be ungrateful in me not to say, that to a wonderful capacity and industry in the acquisition of knowledge, he added great liberality in the use of it. His mind was a vast treasury of information, on which it was hardly possibly to draw too freely, either for the extent of the store, or the kindness and liberality of its owner.

The honourable Member and all his friends, I admit, have lost in him, in this view, what cannot be easily supplied. But, had my learned Friend been still among us, I cannot think that the honourable Member would have had his support to-night. Certainly he never held that the principle of retaliation, on which these Orders stand, was unjust. In the last session he

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* The death of Dr. Lawrence.

expressly admitted the contrary, and opposed the Orders of November, solely on the ground of the alleged non-acquiescence of America in the enemy's decrees. This ground I shall presently examine: but it is in the first place necessary to look back on the facts of the case, and the evidence on which they stand.

Unluckily, the honourable Gentleman seems totally to have neglected and forgotten that great body of evidence, consisting of near 200 folio pages, which at his instance, and that of his friends around him, we laboriously collected in our inquiries respecting the Orders in Council during the last session of Parliament. We were patiently employed near ten weeks in examining witnesses on this subject at your bar; yet from their testimony he has not cited a single passage, nor at all adverted to its general tendency and effect.

Really, Sir, the honourable Gentleman and his friends around him have an extraordinary way of dealing with evidence. He has adverted to the three great subjects of discussion which they have brought before us this session, of which he has justly stated the present to be by far the most important*; and in all these they have shewn, though in different modes, the same disregard to the evidence from which they ought to have reasoned. In the first, they called on us to decide before the papers could possibly be read;—in the second, before they were laid on your table;—and now, when an ample body of evidence, taken at their own urgent request, has been a whole year in our hands, they do not condescend to make use of it. Sometimes they are so eager, that they hunt before the hounds; at other times so tardy, that the game has grown stale before they come up with it, and they then leave it on the ground. In both cases, they take care to deliver their eloquence from

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* The Cintra convention,—the conduct of the war in Spain,—and the dispute with the United States of America.

the incumbrance of facts—If they collect such lumber at all, its use is only like that of ballast in a balloon,—to be cast away in their course, that their fancy may mount the more freely.

An extreme impatience was shown by the honourable Gentleman and his friends, in the last session, to go into the inquiry respecting the Orders in Council, and to establish, by evidence, the case alleged by the petitioners. They then represented the repeal of these Orders as necessary to rescue the country from immediate ruin. They, therefore, night after night, urged forward the inquiry, at the expense of the time and patience of the house, and of other important business; and kept many eminent merchants for several successive weeks in constant attendance, to give testimony at your bar. Yet, when the work was ended, no attempt was made by them to ground any practical measure or resolution on the evidence; and now, at the distance of a year, when a repeal of the Orders in Council, the same measure for the sake of which they urged the inquiry, is at last brought forward, the results of that inquiry, the facts established by the evidence, are kept as completely out of sight as if they had no connection with the subject. All the long and wearisome labours, into which they led us, appear in their judgement to have been absolutely thrown away.

While he thus strangely neglects the facts and the evidence, the honourable Gentleman has employed himself in the examination of prophecies, which he says were made on this side of the house, and have since been falsified by events:—That no such prophecies, as to the good effects of the Orders in Council, were really made, I cannot affirm; for those Orders had frequently been the subjects of debate before I had the honour of a seat in this house. I can only say, that I never made, or heard them. But if it was predicted that the Orders in Council would produce effects beneficial to the trade of this country, by redeeming it from great part of the depression and ruin to which the enemy, by his unjust system, had re-

duced it, I am far from admitting to the honourable Gentleman that this prophecy has been falsified. I maintain, on the contrary, that it has been amply fulfilled.

He has availed himself of a return on your table, to compare the state of our foreign exports and imports during the last year with their state in 1807; and if you compute from the 1st of January to the 10th of October in each year, the periods comprised in that account, the falling off, I admit, is large. But here the honourable Gentleman's neglect of the last year's evidence is peculiarly strange and unfortunate; for, it lay directly in his way, and would have shown to him in the clearest manner the fallacy of his present argument.

Can it be forgotten that it was a point to which the examinations on this side of the house were chiefly directed, to fix the true effects which had been produced by the Berlin Decree upon our trade prior to the counteraction of that Decree by the Orders in Council of November 1807? This was plainly a point of fundamental importance. Before the effects of the retaliation or counteraction could be determined, it was obviously necessary to ascertain what the effects of the hostile system had previously been. But on this important part of the case the evidence on the side of the petitioners was prudently silent. Their witnesses,—some of them, I admit, highly respectable,—gave us much information as to the trade between America and England, which the Orders in Council by no means opposed; and the direct trade between America and the continent of Europe, which the Berlin Decree did not prohibit; but as to the trade between this country and the Continent, which it was the enemy's main object to cut off, and our own to protect, no witness brought to your bar by the counsel for the petitioners was able at all to tell us in what state it stood prior to the Orders in Council; in other words, what effects had been produced on it by the hostile Decrees before our retaliation took place.

It was chiefly, Sir, to supply this strange defect, that it

seemed necessary to gentlemen on this side of the house to call witnesses in answer to the allegations on the part of the petitioners, and in support of the Orders in Council. The facts, indeed, to which they had to speak were notorious; but I was one of those who then thought, and experience has shown with how much reason, that it was proper to establish them by positive evidence on the records of parliament. Accordingly, many gentlemen of the first commercial eminence were examined at your bar, as to the state of your commerce with the Continent immediately prior to the Orders in Council of November 1807; And what was the result? They all with one voice declared, that from the month of August preceding, or at latest during the month of September, it was absolutely ruined and destroyed. With an equal unanimity they ascribed its ruin to the effects of the Berlin Decree.

It appeared by their uniform accounts, that this injurious and audacious attack on our commerce was not immediately executed by the enemy with rigour, and that, therefore, after sustaining some little annoyance by the Decree on its first promulgation, our trade with the Continent in the spring of 1807 recovered what it had lost, and continued in a flourishing and improving state till August. But the enemy, having by that time imposed his system of war against our commerce on almost every power on the Continent, an extension of it which he found was essential to its object, began in earnest to enforce the blockade of the British Islands, by seizures of all Neutral vessels that had traded or touched here, on their arrival in the ports under his control; and the consequence was, a speedy and total prostration of our European trade.

Sir, by not citing the evidence on this head, the honourable Gentleman has imposed on me the unpleasant necessity of taxing in that way the patience of the house: but I will do so as sparingly as possible. My citations from this great mass of evidence, which I hold in my hand, shall not be numerous; and to preclude the suspicion of any unfair se-

lection, I will take them chiefly from the testimony of witnesses called by my opponents. A right honourable Gentleman *, who now sits on the opposite bench, and who distinguished himself by his zeal on the side of the petitioners, called, after their case was closed, four merchants extensively concerned in the Continental trade; and to their evidence I shall chiefly resort; but I will first trouble you with that of one of the witnesses who were examined in support of the Orders.

This gentleman is Mr. William Hall, of the house of Holmes and Hall, eminent packers, agents, and wharfingers, who had been very largely employed in our export trade to the Continent. It is evident that persons in such lines of business must have a more comprehensive knowledge of the case than merchants exporting merely on their own account. The committee therefore selected them as witnesses to the general facts; and I beg the attention of the house to the following passages in Mr. Hall's testimony, which I read from the printed evidence, p. 116, 117.

Q. In your business, have you been considerably employed in packing goods for export to the Continent?—*A.* We have been very extensively employed in packing goods for the Continent.

Q. Was your house engaged considerably that way in the years 1806 and 1807?—*A.* Both in the years 1806 and 1807, we were very extensively employed in packing and shipping goods for the Continent.

Q. Did your business receive any considerable check or interruption in either of those years?—*A.* It received considerable checks in both those years, particularly from December 1806 to March 1807, when a suspension of our shipments took place; and again in August 1807, when a total stop took place to those shipments.

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* Mr. Tierney.

Q. To what do you ascribe the first of those stops you mention, in December 1806?—*A.* We received intelligence in that month of the Berlin Decree having been issued, when it was thought imprudent to make any further shipments until we saw how that operated.

Q. How long did that difficulty continue?—*A.* The latter end of February we received information that that Decree had not been acted on, or that there was little probability of its being acted on, and we were then advised to resume our shipments, which we resumed the beginning of March 1807.

Q. Did they continue to the former extent, or to a greater extent, in that year till August?—*A.* When we resumed our shipments in March, we did it on a moderate scale, but they increased till August; they had then got to a greater extent than at any former period.

Q. To what cause do you attribute the stop that took place in August?—*A.* We then received information that the Berlin Decree had been put in force, and that a number of vessels and cargoes had been seized, and that it was advisable to make no more shipments from that period; when a stop finally took place to our shipments.

Q. Have you packed any considerable quantities of goods for exportation?— *A.* We had a considerable quantity packed at that period, and a considerable quantity also shipped at that period.

Q. What became of the goods which were packed and shipped?—*A.* Three vessels we had shipped in considerably were relanded, and remain now, the major part of them, in this country.

Q. Do they remain now in your hands?—*A.* The major part remain now in our possession; some small proportion of them we have since reshipped to the West Indies.

Q. None to the Continent?—*A.* No, none.

Q. Was the same stop experienced at that time by other

persons employed in the same branch of business with yourself?—*A.* It was by no means peculiar to our house, but to every merchant who was in the habit of exporting to the Continent; it was without any exception whatever.

Without detaining the house, Sir, to show how fully this representation was confirmed by all the other witnesses called by gentlemen on this side of the house, I proceed to the evidence of the witnesses called in reply by the right honourable Gentleman.

Mr. Frederick Molling, who stated himself to have been nearly forty years engaged in trading from this country to the Continent, and that his house was reckoned one of the first in that line, being asked, What have been the operations produced upon your trade by the Orders in Council of November 11? answered, They have had no effect at all at present, because our trade was entirely gone. (p. 158.) Again: being asked, Were the ports of the Continent shut by the Berlin Decree, or the Orders in Council? he answered, By the Berlin Decree, not by the Orders in Council. (p. 160.)—The following are further passages in Mr. Molling's evidence.

Q. Did you hear of any ships being detained in consequence of the Berlin Decree?—*A.* Several. *Q.* Will you mention what number?—*A.* Really, I cannot speak to that, but I had about two; I took care to ship my goods in time; we could ship till the month of June, and my own ships went away; I cannot speak to others.

Q. Are you of opinion, that you have reason to suppose the Berlin Decree was not acted upon in any port of Holland?—*A.* All over the Continent. *Q.* Generally?—*A.* Yes, wherever the French could send their custom-house officers, or their excise officers. *Q.* Before the Orders in Council were issued here in November, all trade to the Continent was literally stopped?—*A.* My last invoice was made out in the month

of June and the beginning of July. In the month of August I smuggled some British fine goods to Holland, but my own trade stopped on the 28th of June; that was the final stroke to our invoice book, except a little trading business to Holland in fishing-boats or something of that kind.—*Q.* Then the Orders in Council of this country had no effect at all upon the trade to the Continent?—*A.* No, it was gone.

Mr. Sigismond Rucker, the next witness of the right honourable Gentleman, a merchant extensively engaged in the same line of business, being asked,—Was not your export trade to the Continent at a stand before the Orders in Council were issued?—answered, Completely so. The question, being supposed to have been mistaken, was repeated, and the same answer returned. (p. 164.)

Mr. Alewyn, of the house of May and Alewyn, was the third witness;—and I cite these passages from his evidence.

Q. Did you export any goods to the Continent after the month of August 1807?—*A.* None whatever. *Q.* Your trade was totally at a stand, then, before the Orders in Council were issued?—*A.* Totally so; and several ships in the month of August were either stopped on this side of the water, and are still here, or were seized in Holland.

The last of the Continental merchants called by the right honourable Gentleman was Mr. Burmester; and he entirely concurred with the rest.

Q. Was not the export trade to the Continent at a stand before the Orders in Council?—*A.* So much so that I did not think it safe to do any part of it. *Q.* The Orders in Council, as far as your trade extended, did not produce that stoppage?—*A.* Not in any one shape to our house.

Q. Was not the export to the Continent in general at a stand after the month of August last?—*A.* I considered it so circumscribed, that among the merchants I was acquainted with, there was not one in ten that ventured to export at all. (p. 168.)

Such, Sir, was the direct and conclusive testimony as to the ruined state of our commercial intercourse with the Continent, from the effects of the French Decrees, when the enemy exerted his power in carrying them into full effect.

But there was another subject of evidence, which, while it confirmed the same alarming fact, was most material to show the more general prejudice sustained by the commerce of this country, through those violations on the part of the enemy of the rights of Neutral Powers,—I mean the increased rates of insurance on different branches of our trade. On this head I had occasion, before we went into the inquiry of last session, to state facts which appeared to me of great importance. I stated, that the rates of insurance on our trade with the Continent had risen to a degree which at length amounted to a prohibition of the commerce itself: that the rates of insurance on Neutral vessels, merely touching at these blockaded islands in the course of their voyages, had enormously advanced; and that even in our direct trade with the United States of America, in voyages directly and solely between their ports and ours, the price of insurance had been most materially advanced, by the effects of the Berlin Decree.

These propositions, Sir, were then disputed; but the witnesses examined at your bar proved them beyond the reach of doubt.

Here I must again refer to the printed evidence. We examined several eminent underwriters: and I beg your attention to the testimony of one of them, Mr. Dewar, which is to be found from page 127 to 129 of the printed minutes.

He first speaks of the insurances on voyages directly from this country to the Continent; as to which, the questions and answers are these.

Q. In what line of business are you engaged?—*A.* As an underwriter. *Q.* Are you engaged extensively in that line of business?—*A.* Very much so. *Q.* Were you extensively

engaged in the business of underwriting, in the years 1806 and 1807?—*A.* Yes.

Q. Are you acquainted with the current rates of premiums on insurances made in those years, on voyages from England to the continent of Europe?—*A.* To what part of the continent of Europe? *Q.* Specify to what parts of the continent of Europe you are acquainted with the insurances.—*A.* The whole of them.

Q. Was there any, and what advance in these premiums, immediately after notice arrived in this country of the French Decree of Nov. 1806, which is commonly called the Berlin Decree?—*A.* The first insurances that were made in 1806, began at six guineas per cent. to Holland: they rose towards the month of November, as soon as the Berlin Decree was known, to ten guineas, (which was considerably above the regular increase of the season of the year,) in consequence of the Berlin Decree. *Q.* You conceive the advance to have been occasioned by the Berlin Decree?—*A.* Certainly, a considerable portion of the advance; at least 25 per cent. on the original premiums.

Q. Did those premiums of insurance afterwards decline?—*A.* They did: when they found the Berlin Decree was not acted on, they gradually declined. *Q.* To what rates had they fallen in August 1807?—*A.* They fell gradually till they came to five, and at last to four guineas, in August 1807. *Q.* Was there any, and what considerable advance, in such premiums after the month of August, and prior to the issuing of the British Orders in Council of November last?—*A.* Premiums to the Continent in August were four per cent.; they then rose to five, six, and seven: then the seizures in Holland took place; no business was done for a considerable time after that; then 15, 20, and 30 guineas per cent., was given prior to the 15th of October.

Q. Do you ascribe those advances to the proceedings you have mentioned in Holland in the month of August?—*A.*

Decidedly. *Q.* And from that cause the premiums did advance, prior to the British Orders in Council, to 30 per cent.? —*A.* They not only advanced in consequence of the seizures in Holland, but it was with the greatest difficulty any insurance could be effected; it could not be done at any price to any considerable extent.

Q. Did the insurances continue at the high premiums you have mentioned, to the end of the year?—*A.* They did; but very few of them could be done; and in short the business was finally put a stop to, by not being able to effect any considerable sums of insurance. *Q.* Then in your opinion those high rates of insurance, of which you speak, were not the effect of the British Orders in Council, but of the proceedings in Holland, of which you have spoken?—*A.* Certainly, the high premiums were given prior to the Orders in Council, or prior to any idea of the Orders in Council.

The same eminent underwriter speaks next as to the effects of the Berlin Decree on the American trade with the continent of Europe, when the cargo was shipped in America, but the vessel had leave to call at an English port on her way: and I will read this part also of his evidence.

Q. Do you know what rates of insurance were current in England from November 1806 to November 1807, on voyages from America to ports in France and Holland, with liberty to touch in England; the ships being American?—*A.* The premium on Americans to Holland in the winter of 1806, beginning in November, was from eight to ten guineas; the premium to France was only five; but with the increase of two per cent for touching in England in November 1806. *Q.* Was there any, and what advance on the premiums last mentioned, immediately after the Berlin Decree was first known in this Country?—*A.* I think, taking them generally, about 20 per cent. *Q.* Do you ascribe the advance in that case to the Berlin Decree?—*A.* Certainly.

Q. Did those rates of insurance, in the voyage to which

you have last spoken, afterwards decline?—*A.* They generally declined as the season advanced, and as it was found the Decree was not acted on. *Q.* Did any material advance occur in the premiums on the voyages last mentioned, between the month of August and the 11th of November last?—*A.* There was an increase; they rose perhaps 40 per cent higher than they had been, I think, in the former year between those periods. *Q.* What was the advance from what they had been in the beginning of the month of August?—*A.* They were at four guineas in August, and they were at ten guineas about the 10th of October. *Q.* They rose from four to ten guineas per cent.?—*A.* Yes; the season had some effect on the rise of the insurance. *Q.* When you speak of an advance of 40 per cent, do you mean that the advance, of which you have last spoken, was partly the effect of the season to the extent of the difference between 40 per cent, and the 150 per cent. which you have now described?—*A.* The premium of the former years at the same period was about six guineas, and between August and October in 1807, the premium was ten guineas.

Mr. Dewar's evidence, Sir, extends also to the third branch of insurance to which I have adverted, and which peculiarly demands the serious attention of the house. In voyages of American vessels directly from their ports to ours, or the reverse, it might be supposed, and has been stoutly alleged, that the Berlin Decree had produced no consequences seriously detrimental to our commerce, because the naval power of the enemy was too small to give effect to his own injustice. But the fact is, that even in this branch of trade, comparatively out of the reach though it is of French capture, we were subjected to the enormous advance of 50 per cent. on the former rates of insurance.

Q. Do you know what were the average rates of insurance in 1806 and 1807 respectively, on voyages in American vessels from England to America, and from America to England?—*A.* Yes.

Q. Can you state whether insurances on those voyages in 1807, were at a higher premium on the average than in 1806? —*A.* Very considerably higher: in the year 1806, they were at two and a half per cent. on the average; in 1807 about three and three-quarters on the average, taking the year through.

Q. To what do you ascribe the advance in 1807, beyond that of 1806, in the voyages of which you have last spoken? —*A.* Certainly to the Berlin Decree; in consequence of which several ships were taken, pursuing their voyages from this country to America, and several from America to this country; I think not less than twenty-one altogether.

Q. Do not the great shipments to America from England commonly end by the close of the month of September?—*A.* Generally. *Q.* Then if the comparison of premiums be taken on outward voyages from the beginning of the year to the end of September, what proportion do the premiums of 1807 bear to those of 1806?—*A.* They are full fifty per cent. in advance.

Sir, I will not trouble you, and exhaust the patience of the house, with reading extracts from the confirmatory evidence of the other underwriters whom we examined. It can be referred to in your minutes. Indeed, how could any one gentleman of character be possibly distrusted in speaking of facts of such public notoriety as the rates of insurance at Lloyd's coffee-house! The gentlemen whom we examined did not depend on information as to the facts they related. They supported their statements by insurances effected or made by themselves, and by policies which they had in their possession, which they brought down to the house, and were ready to produce. Some of these, indeed, were produced, and the rates of insurance read from them at your bar. Nothing could be more satisfactory in itself than such evidence; and besides, it was wholly uncontradicted. The Gentlemen on the other side of the house might have called all the underwriters from Lloyd's coffee-house; but

they did not venture to examine one of them, or at all to controvert those open and notorious facts*.

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* The important and decisive nature of these facts, in opposition to all the arguments drawn on the part of America from the supposed inefficiency of the Berlin Decree, may justify some further citations from the printed evidence.

The following is the testimony of Mr. Robert Shedden, one of the oldest and most eminent of English underwriters.

Q. In what business are you engaged?—*A.* As merchant and underwriter. *Q.* How long have you been engaged in that business?—*A.* Forty-four years. *Q.* Do you underwrite very extensively?—*A.* Yes. *Q.* Were you extensively engaged in underwriting in the years 1806 and 1807?—*A.* Pretty extensively. *Q.* Are you acquainted with the current rates of premiums for insurances made in those years, on voyages from England to the continent of Europe? *A.* Yes. *Q.* Was there any, and what advance in the premiums on those voyages, immediately after notice arrived in this country of the French Decree of the 21st of November 1806, called the Berlin Decree?—*A.* There was an advance of premiums in 1806, from London to Holland, and Hamburgh, and the adjacent ports; there was from 25*s.* to 40*s.* per cent. for all risks; in the spring of 1807 the premiums advanced to ten guineas per cent., and fell afterwards to eight and seven guineas per cent., at the same time they were done free from capture and seizure at a guinea and a half per cent., at which I underwrote some. *Q.* Do you conceive the advances you have mentioned to have been occasioned by the Berlin Decree?—*A.* Most certainly. *Q.* Did those premiums, after the time you have mentioned, and when, decline?—*A.* The premiums fell considerably in the summer of 1807, as low as four guineas per cent., in June and July, for all risks; on the idea that the Berlin Decree wou'd not be acted upon, as several vessels had been permitted to land their cargoes. *Q.* To what had the premium fallen in August last?—*A.* I did not write any in August; I did not write any, after the 10th of July, till October, except free from capture and seizure: they were done as low at that time as 20*s.* per cent., free of capture and seizure; I considered the premium not adequate to the risk for all risks, which I believe was about 5 guineas per cent., but I did not write them. *Q.* Was there any, and what considerable advance in these premiums, from the month of August to the time of the Orders in Council of the 11th of November?—*A.* From the great number of vessels seized in Holland, the premiums got up to 20 guineas per cent., from that to 25 and 30 guineas per cent.; I underwrote a few at that rate in October, and have since paid for several. *Q.* Did you yourself write many policies at the highest premium you have mentioned?—*A.* I wrote several; a good many. *Q.* To what cause do you ascribe those great

Sir, the proof of the total ruin of our trade with the Continent, clear though it is on the testimony which I have cited, did not rest here.

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advances in premium, which took place between the month of August and the month of November?—*A.* To the French Decrees, and their seizing them in port. *Q.* To their seizing Neutral vessels and cargoes in port?—*A.* Yes. *Q.* Do you know what the current rates of insurance were in England from November 1806, to November 1807, on voyages from America to ports in France and Holland, with liberty to touch at ports in this country?—*A.* I did not begin to underwrite those risks after November 1806, till the beginning of the year 1807. A list of those I did write, I have here. *Q.* Was there any, and what advance in the premiums upon the voyages last mentioned, immediately after the Berlin Decree was first known in this country? —*A.* In January 1807, the premium was from eight to ten guineas per cent., which was a considerable advance of premium on similar risks given in January 1806. *Q.* How great was the advance, compared with the January of the year preceding?—*A.* January 1806, Virginia to Bourdeaux, five guineas; ditto, five guineas; to Nantz, six guineas; to France, five guineas; New York to Nantz, five guineas, 4, 5, 5, 3, 4, according to the season; then they came down in April to 3, 4, 4, 4, 4, $3\frac{1}{2}$, 4, $2\frac{1}{2}$; in the month of June $3\frac{1}{2}$, 3, 3, 3, as low as October. *Q.* To what cause do you ascribe the greater rate of premium in January 1807, as compared with those of 1806?—*A.* To the seizure by the French on their Decrees. *Q.* Did the premiums decline between January and August 1807, from the high prices of January?—*A.* The premiums at Lloyd's did decline in April 1807 to four guineas per cent. *Q.* Did they rise again in or after August? —*A.* I did not write any in August; I was afraid. *Q.* For what reason were you afraid to write in August?—*A.* I did not think the premiums adequate to the risk, in consequence of my apprehensions of the French captures. *Q.* The French captures under the Berlin Decree?—*A.* Yes; I did not know of any other at that time.

Q. Do you know the current rates of insurance in the years 1806 and 1807, on voyages from America to England, and from England to America?—*A.* I do, from a great number of risks I wrote at Lloyd's, know most of the premiums there. *Q.* Can you state whether the premiums on those voyages were a greater average in 1807 than in 1806?—*A.* If the premiums from England to America are taken in the month of March only, there was little or no difference in the rates between 1806 and 1807; as it was for both years three guineas per cent. for that month; in the summer of 1806 the premiums fell considerably, as we had no capture of American ships in 1806 that I know of: after the Berlin Decree was known here, the premiums rose in January and February 1807, but fell again in March, on the idea that the Berlin Decree would not be acted upon; but in the autumn,

That so important a fact might be put out of the reach of controversy, an account was required, from the inspector-gene-

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from the number of American vessels that were captured, the premiums rose.

Q. Taking all seasons of the year together, what proportion did the premiums of 1807, as you compute, bear to those of 1806?—*A.* The first ten months in both years, which is the season for shipping, I calculate the outward premiums to America in 1807 to be three and forty-five 100dth parts of a guinea per cent., which in 1806 was only two and fifty-seven 100dth parts of a guinea per cent. This is a rise of premium of more than thirty-three and a third per cent., or 3*l.* 6*s.* 8*d.* on every 100*l.* Upon the whole, there was a general rise of premium in 1807 from 1806, both to and from America, and from England, in consequence of the French Decrees, and the great number of Neutral vessels captured at sea before the Orders in Council. I speak with confidence on this subject, not as matter of opinion, but from extracts taken from my own books of underwriting.

Q. Do not the great shipments from England to America generally end by the close of the month of September?—*A.* They generally do. *Q.* To what cause do you chiefly ascribe the advance in premiums in 1807 over those of 1806?—*A.* To the captures in consequence of the French Decrees. *Q.* Was not the month of March, when the premiums were nearly equal, a time when the Berlin Decree was known not to be carried into execution?—*A.* It was presumed so; we thought so at that time; several vessels had landed their cargoes.

Mr. Hadley, another underwriter and insurance-broker at Lloyd's, gave the following evidence.——*Q.* Are you engaged in underwriting?—*A.* I am. *Q.* Did you carry on that business in the years 1806 and 1807?—*A.* I did. *Q.* Are you acquainted with the rates of premiums on insurances in those years upon voyages from this country to the Continent?—*A.* I am. *Q.* Was there any advance in those premiums immediately after the arrival in this country of notice of the French Decree, called the Berlin Decree?—*A.* The account of the Berlin Decree was received about the middle of December: at that time there was no great deal of insurance doing, but it had a very considerable effect on our Neutral insurances. *Q.* Was that effect to advance the premiums?—*A.* A very considerable advance in the premiums. *Q.* Which you ascribe to the notice of that Decree?—*A.* Certainly.

Q. Did those premiums afterwards, and at what time, decline?—*A.* They declined as it was found the Decree was not strictly acted on. *Q.* About what period of the year was that?—*A.* They began to decline about February and March. *Q.* To what rate had they advanced at the highest before the month of March?—*A.* Ten guineas. On the 28th of February I gave ten guineas. *Q.* To what rate did they decline in March?—*A.* Seven guineas in March. *Q.* What might they be in April?—*A.* Six in

ral of imports and exports, of applications made to the commissioners of the customs in September and October 1807 for

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April. *Q.* From what places to what places?—*A.* London to Holland on Neutral vessels. *Q.* In May, June, and July?—*A.* Four and five guineas, according to the article. *Q.* Were insurances made at the same rate at any time in August?—*A.* I have one policy here in August at five guineas from London to Rotterdam. *Q.* Was there any considerable rise in the month of August?—*A.* The latter end of August, I think the 29th, we received an account of some seizures in Holland, which put a stop completely to all insurance for a time. *Q.* Seizures upon what ground?—*A.* It was understood (the impression on my mind, and I believe in general, was) that it was a more strict enforcement of the Berlin Decree than had previously been made. *Q.* To what rate did the premiums advance when insurances were renewed in September and October?—*A.* Twenty, twenty-five, and thirty guineas were offered; and but small sums could be insured even at that. *Q.* Did those high premiums continue down to the date of the Orders in Council?—*A.* They did.—*Q.* Was there any change produced in that respect by the Orders in Council?—*A.* I should think not. *Q.* Do you know of any ships having sailed for France or Holland in August or September, and returning without landing their cargoes?—*A.* The vessel I have mentioned to have insured in August was at Gravesend, at the time we heard of the seizures in Holland; she remained there for some time, was brought back up the river, and discharged her cargo: the goods are now in the warehouse here. Another vessel which lay along side her proceeded to Holland and was seized.

Q. Do you know what were the current rates of insurance in England from November 1806 to November 1807, on voyages from America to ports in France and Holland, with liberty to touch in England?—*A.* I am not much conversant with those premiums. I know some little of them from America to Holland. *Q.* Was there any, and what advance on the premiums on those insurances, on notice of the Berlin Decree?—*A.* I do not immediately recollect that. *Q.* In the month of August, on the news of the seizures in Holland, were the premiums of insurance upon that voyage increased?—*A.* Not quite so early as August. *Q.* In September and October?—*A.* A considerable advance took place. *Q.* Can you state in what proportion the premiums on those voyages advanced?—*A.* In August they were done at three guineas and a half, and four guineas; in October at eight, ten, and twelve guineas.

Q. Do you know the current rates of insurance in the years 1806 and 1807, on voyages from America to England, and from England to America?—*A.* I do. *Q.* Was there any advance in premiums on those voyages in 1807 as compared with 1806?—*A.* There was a considerable advance.—*Q.* Can you state what you calculate to have been the amount of the advance in 1807 compared with 1806?—

permission to reland goods which had been shipped at the port of London for exportation to the continent of Europe, with the reasons assigned for such applications. The account returned by the inspector-general was laid on your table; and it appears from it, that in those two months no less than sixty-five such applications had been made, on the ground that, in consequence of the execution of the Berlin Decree, the ships could not prosecute their intended voyages.

If, Sir, the fact stood on the evidence of this account alone, what could be more decisive?—Is it to be supposed, that while so many cargoes, on which all the charges of shipment had been incurred, were relanded, because the adventures were found to be impracticable, other shipments were made at the same period, on the same hopeless destinations? If not, this official return alone would fully suffice to prove, that our trade with the Continent, prior to the Orders in Council, was, in consequence of the French Decrees, wholly at a stand.

It may have seemed a waste of your time, Sir, to insist so long on the evidence of a fact which is so public and notorious in its nature, and which in this house neither has been nor will be directly denied. But the fact, notorious and incontrovertibly established though it is, has been boldly contradicted before the public; and there is reason to believe that the worst consequences have been produced in America, by the misrepresentations that have gone abroad on this subject.

Sir, I am sure it will excite the indignation of the house, to hear such gross and scandalous perversions of fact and evi-

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A. In 1806 the premiums to America were for the last five months three guineas per cent., and afterwards, from June to October, two guineas, and from that to December three guineas: in 1807 they were very fluctuating. *Q.* If the average were taken of the insurances of 1807, as compared with the insurances of the preceding year, how much per cent. would the advance amount to?—*A.* I should think it would exceed fifty per cent. on the premium; as for instance from two guineas to three, and in that proportion.

dence as I must here beg leave to read from a periodical work of great celebrity relative to our inquiries in the last session of Parliament. [Mr. S., being here called on to name the work, said it was the Edinburgh Review.] Sir, it is alleged in this work to have appeared from the evidence given before us last year, that Neutral vessels were publicly and regularly chartered on voyages from this country to the continent of Europe, after the Berlin Decree, in the same manner as before; and that there was no interruption in their trade up to the date of our Orders in Council. It is added that the rate of insurance on such voyages did not experience the least advance in consequence of the Berlin Decree; but remained precisely at the same point where it had formerly stood, till our Orders in Council raised it so high as to put an end to the trade altogether.

The consequences deducible from these bold misrepresentations, are as boldly drawn; and I admit are not unfair, supposing the premises to be true. It is alleged "to be clearly and indisputably made out, that the preamble of our Orders in Council, which contains their only justification, is erroneous and fallacious in all points; and that the Berlin Decree, whose rigorous enforcement and unresisted execution they are meant to retaliate, neither was enforced nor submitted to until it was seconded and superseded by those effective and most injurious proclamations."—It is added: "We are chargeable, therefore, with the whole of the injustice and oppression which we have been accustomed to charge against the enemy; and are answerable primarily and alone for the unprecedented measure of putting a whole quarter of the world in a state of blockade by a few pages of writing," &c.*

Thus, Sir, his Majesty's Government is accused of open falsehood, in a solemn act of state; and the conduct of the country towards foreign Powers is arraigned of injustice and

* Edinburgh Review, No. xxiii. p. 233, 234.

oppression; and this by a direct inversion of the uniform tenor of the evidence given at the bar of this house, as well as in opposition to public and notorious fact. Nor is this the only work in which such false and mischievous statements have been published. In some daily prints, devoted to the service of Gentlemen on the other side of the house, the same bold falsehoods have been propagated with much assiduity; and I doubt not with pernicious effect.

The very grossness of such misrepresentation, Sir, is calculated to assist its object. Men are accustomed to make great allowance for party-spirited relations of facts; and to expect that they will differ in some, nay in a wide degree, from the truth of the case; but they still expect some resemblance between the one and the other. The truth may not lie in the same parallel of latitude, or even in the same climate or zone, with the statement; but they suppose it to be at least in the same hemisphere. When, therefore, a representation is carried to the very antipodes of the truth, it often effectually deceives, in spite of a reasonable distrust of its authority. Our audacious and profligate enemy well understands this. His falsehoods therefore are generally as remote from reality as he can possibly make them. Our glorious victory of Trafalgar is a defeat, in which we lost sixteen sail of the line!—the gallant and high-born Palafox, is an upstart and a coward!—and in the battle of Corunna, our brave soldiers were defeated by a third of their numbers. His style, indeed, begins to be understood. Men look for the real fact in the reverse of his statements. But the English press, is not yet accustomed to such utter contempt of truth. If we paint, it is commonly in imitation of Nature; and not, like this coarse French daubing, in defiance of it. The bold fictions of which I speak, therefore, when found in English prints, are likely to be credited to a great and mischievous extent.

I cannot doubt, Sir, that these misrepresentations have obtained credit in America: for it appears in the papers on

your table, that the Government of that country assumes as a fact, the total inefficiency and impotency of the French Decrees against our commerce. It imagines that we had actually suffered nothing from them; and that it was a merely nominal injury to ourselves, which we resented at the expense of the trade of Neutral nations. Even Mr. Pickering, that enlightened American statesman, in defending against the French party the case of this country, seems not to have been aware of its strength. He says that we did not retaliate till we had seen the deadly weapon aimed at our vitals: but had he known the whole truth, he might, and no doubt would, have added, that the blow was actually struck; that a dangerous wound was given, and that the commerce of this country was prostrated on the ground, and motionless, before our protecting and self-defensive system was interposed by the Orders in Council.

Really, Sir, under such a misconception of the facts of the case, as the American people have apparently entertained, their resentment is not unnatural. If they knew that we were driven to a too tardy retaliation, as the fact really was, by the actual downfall of our commerce, they would hardly be so unreasonable as to condemn that necessary expedient. But supposing the very reverse of this case to be true, and that our commerce continued in the most flourishing state till the Orders of November issued, they may reasonably regard our conduct as unfriendly at least, if not also unjust. We may seem to them unkindly and perversely to have sacrificed our own commercial prosperity, for the sake of destroying theirs. That state of things, let it be considered, which was notorious in the city of London, in September and October 1807, could only be known in America, by the ordinary channels of foreign information; and when they found our own newspapers, and most celebrated periodical publications, boldly stating to the people of this country, that the case was the very reverse, and that our commerce continued

in the most prosperous state till the Orders of November issued, can we wonder that the tale should be credited? It is impossible, an American might reasonably argue, that such statements would be published in England, if the trade in question had been materially injured; much more if it had been totally at a stand. If there really had been any prejudice by the French Decrees, it must surely have been very doubtful and slight. It is needless, however, to show that these misrepresentations may deceive beyond the Atlantic, since they have produced that effect at home.

Sir, though the honourable Gentleman does not expressly adopt the false premises which I have refuted and censured, he reasons as if he believed them. He overlooks the ruined and prostrate state of our foreign commerce in the autumn of 1807, when he asserts, from the account on your table, that it has fallen off since the Orders in Council. That account has indeed enabled him to compare our imports and exports in the two last years respectively, from the 1st of January to the 10th of October in each year. But the case, as it stands on the evidence, demands that he should look back in respect of 1807, only to the period between the month of August and the date of the Orders in Council; the part of that year during which the Berlin Decree was carried into full effect.

Of this period, the account before you comprises only forty days; namely, from the beginning of September to the 10th of October. The news of the seizures in Holland did not arrive till about the end of August; and during the preceding summer months our trade with the Continent was as prosperous as ever. The Berlin Decree was then, in fact, what it is falsely alleged to have continued to be till November, almost a dead letter. It is plain, therefore, that to compare the trade of 1807 generally, or of the first nine months of that year, with the trade of 1808, is not fairly to compare the commercial effects of the Berlin Decree, when executed, and unresisted by the Orders in Council, with the effects of that Decree and our Orders acting together. Let the honour-

able Gentleman take, if he pleases, all September and the first ten days of October for the purpose of his comparison, and he will then have no cause to triumph in the failure of that prophecy which he says was made as to the improvement of our trade.

If indeed his terms of comparison were right, the account would in other respects be a very imperfect view of our loss or gain by the Orders in Council. I admit a diminution of imports and exports in the last year, compared with the preceding, though such as bears but a small proportion to the trade that still remains. But I understand that when the account of the last quarter of 1808 can be made up, the falling off, on a comparison of the two entire years, will be found very little; and there are explanations which will shew that the loss, even within the period comprised in the account now before us, is much less than it appears to be. We have found too, in the improvement of our Colonial trade, some very valuable and growing compensations for that loss. But I leave these subjects to gentlemen who will follow me on the same side; from whom they will come with more weight and authority than from me*.

I maintain then, Sir, that our commercial situation has not been deteriorated; on the contrary, has been greatly improved; not indeed since the summer of 1807, when we did not feel the Berlin Decree, but since the autumn of that year, when we did feel it, and when the Orders in Council issued. Does the honourable Gentleman ask me by how much it is improved? I answer, By the whole amount of the trade we now possess; as far, at least, as respects our intercourse with the continent of Europe. In September and October 1807, it was extinct and gone; a few petty and desperate adventures not worth reckoning excepted:—all therefore that now exists is gain. If

* These explanations were afterwards very satisfactorily given by Mr. Ross.

indeed it was prophesied, as the honourable Gentleman alleges, that the Orders in Council would raise our commerce to a pitch of prosperity beyond what it had ever before attained, the prediction was not rational: for the injurious and violent system of the enemy, though counteracted by our Orders, could not be wholly fruitless. Some diminution of our commerce was unavoidable, when all that France could do, by force or terror to shut us out of the ports of the Continent, was rigidly done. But when the state in which the Orders in Council found the trade of the country, is fairly stated, it is clear that no such extensive hope was necessary to recommend them. The supposed prophecy in that view was quite gratuitous. If I saw a man who had fallen into the Thames, struggling for life, and proffered him my assistance, it would not be necessary to promise him that he should be in better than ordinary health and vigour to-morrow if he would come into the boat. Such, and worse, was the state of the European trade of this country when the Orders of November issued. It was in a state of suspended animation; and to complain now, because it is not as flourishing as in its best former period, is just as reasonable as if the man rescued from drowning when his vital functions were suspended, should find fault with his deliverer the next day, because he found himself weak and languid, or not so full of life and vigour as before he fell into the river.

Sir, the essential importance of this part of the subject will, I trust, excuse my having dwelt so long upon it. To shew the actual state of our commerce at the date of the Orders in Council, is, in fact, to overthrow almost the whole of the honourable Gentleman's argument. He every where assumes that its state was then flourishing. He builds upon this foundation. Not only, however, is this assumption in direct opposition to all the evidence; but Gentlemen on the other side, did not venture to assert, or to attempt to prove, such a proposition in the last session of Parliament. The loss of our European trade by the Berlin Decree in September and Octo-

ber 1807, though they left us to call witnesses who could prove it, was not disputed. They did, I admit, attempt to make out that the trade of the country had been injured by the Orders in Council: But in what way? Why, by pretending that those Orders had destroyed our commerce with the United States of America.

This to be sure was a singular assertion:—The answer to it was obvious.—The Orders, we objected, in no degree prohibit that commerce; they rather tend to promote and increase it. It was true our American trade was at a stand: But by what means? —By the American Non-importation Act, passed long anterior to any of the British Orders in question; and by the Embargo, which was imposed by the Legislature of the United States before our Orders of November were known to their Government. The Gentlemen were driven, in reply, to the strange and desperate pretext, that some private intelligence, anticipating our Orders of November, had reached America prior to the Embargo; and had produced, or contributed to produce, that measure.

I shall consider, presently, this preposterous notion of a government and legislature having acted upon private rumours, anticipating the measures of another country, for so very serious a purpose as that of the American Embargo; and shall show that it is utterly destitute of any foundation in truth. But it is enough for my immediate purpose, that such was the state of the argument between us and the petitioners in the last session of Parliament. Extravagant though the pretext was, Gentlemen on the other side were under the necessity of maintaining it. The European trade was gone by the Berlin Decree—the American trade was gone by the Non-importation Act and Embargo. The only way, therefore, of ascribing to the Orders in Council any effect injurious to our trade, was to allege that they had produced those restrictions in America, which were undeniably the immediate and visible obstacles to our commerce with that country.

The Gentlemen, indeed, took great pains to establish cir-

cuitously another consequential loss of trade with the United States. They proved ostentatiously what nobody ever denied, that the trade between America and the continent of Europe had indirectly extended the export trade from England to America. The bills received by American merchants in payment for cargoes carried to the Continent, were partly laid out, we were told, by their agents in this country, in the purchase of British commodities and manufactures, to be exported from hence to America, and through America to the foreign West Indies.

It is true that such a course of commerce existed, and was generally beneficial to us; though as to the supply of the foreign West Indies, it was only a substitution of American bottoms for our own. We should otherwise have sent the same supplies through our free ports, as we used to do before the war; and as we are now again doing, in consequence of the American embargo, and of our own existing system.

But of whatever value this indirect trade might be to us, its loss was obviously not imputable to the Orders in Council.—Of what use would it have been to us, that Americans received bills of exchange on the Continent, or that they were remitted even through this country, if that could still be done, while the American Non-importation Act and Embargo prevented the application of them to the purchase of our exports? In this view, as well as the rest, Gentlemen on the other side were driven to contend that the Orders in Council had produced the Embargo. This indeed fell short of their purpose, since they could not allege the same of the Non-importation Act*. But without that strange pretence, they had

* It was afterwards shown by Mr. Rose in this debate, that the actual diminution of our export trade to America arose wholly from the decreased export of articles prohibited by the Non-importation Act. Yet the law empowering the President to lay that interdict on our trade, passed in April 1806; and it was put in force in the autumn of July 1807.

not even a colour for maintaining that the Orders in Council had directly or indirectly diminished our trade with the United States.

There was, however, another obstacle to our retaining the benefits of the returns of American trade with the continent, while the Berlin Decree remained in force, supposing even the Embargo and Non-importation Act to be repealed; and this also was a subject of our last year's inquiries.

Here, Sir, I must take a more enlarged view of this great subject than is commonly taken of it either in America or England, in order to show you the full effects of that policy which the honourable Gentleman recommends.

It is a very inadequate statement of the mischiefs which would have resulted to our commerce by the enemy's plan if unresisted, to say, that we must have finally lost by it all our trade with the Continent. This, indeed, we had actually lost by a temporary acquiescence, as I have abundantly shown from the evidence. But the same hostile system would soon have driven us almost entirely out of the trade of the New World, as well as that of the Old. Even our commerce with the United States themselves must have been ruined by a state of things to which we submitted, for the sake of amity with them. This, Sir, though not obvious at first sight, is strictly demonstrable, and on principles which every merchant will admit.

In the first place, a great part of our exports to America have been paid for, as was alleged and proved on the other side, by bills of exchange upon England, received by American merchants in payment for cargoes carried by them to the Continent. The native produce which America sends us, is by no means sufficient in value to pay for all the goods that she takes from us in return. The balance of trade is largely against her; and she must pay that balance by the returns of the trade she carries on to other countries, or not at all. Now, Gentlemen on the other side contended, and examined a respectable mer-

chant to prove, that bills of exchange might be remitted from the Continent notwithstanding the most rigid execution of the Berlin Decree; and so to be sure they possibly might.—Though we could receive no goods from thence, nor send a bale of our manufactures, letters no doubt might sometimes be conveyed, and might cover bills of exchange.—But some commercial gentlemen, members of this House, who laboured in common with me last session in the examinations in support of the Orders in Council,—(It is singular enough, Sir, as these Orders are alleged to be destructive of the commerce of the country, that commercial gentlemen among us should almost unanimously be their active supporters),—I say, Sir, some of these honourable friends of mine decisively answered this suggestion as to bills of exchange, by showing that under the circumstances in which the Orders of Council of November found our foreign trade, such bills would soon have ceased to exist.

Bills of exchange are obviously the fruit, as well as the medium, of commerce:—they are produced by the operations of importing and exporting, buying and selling; and when trade between two countries has for some time ceased to exist, there can no longer be any ordinary means of obtaining bills of exchange, drawn from the one upon the other. Bills, in a word, depend upon actual commerce, as the shadow on the substance. There may, indeed, be an exchange between two places, where the one only trades through, not with, the other: but after all commercial intercourse between them, direct or indirect, has wholly ceased, the occasions and power of drawing bills of exchange on each other must cease also. Let it be supposed, then, that the blockade of the English islands is completely enforced on every part of the Continent; and it is clear that American merchants, if they still wished to obtain bills there, drawn on this country, in order to purchase our manufactures, would be unable to find them.

Plain, Sir, though this consequence is, it was the subject of

evidence in the committee; and was confirmed by the opinions of gentlemen of high eminence in the commercial world. It was especially supported, and clearly explained, by one very respectable gentleman, whose intelligent evidence is well worth the serious attention of this house. I refer to the examination of Mr. Inglis, the East India director*.

Unless, then, the Americans could have sold their cargoes on the Continent for specie, and were willing to bring it here, at the risk of violating the French Decrees, we should soon have ceased to derive any indirect benefit in our trade with America from her trade with the rest of Europe. Supposing her Embargo and Non-importation Act even not to have stood in our way, we must soon have lost so much of our export trade to the United States, as used to be paid for by their continental remittances. In the same proportion, we must have been supplanted by our European rivals and enemies in the supply of the American and West Indian markets.

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* The passage to which Mr. S. here referred, is in p. 144, and is as follows: Q. If the trade between this country and the Continent were by any cause to be wholly cut off, could bills then be remitted from the Continent to England, to pay for our manufactures or other exports to America?—*A.* Without the continental trade to England exists, I do not see from whence the credits are to come, that bills could be drawn upon. The bills which have been remitted to me on American account have been drawn in Russia, for the hemp and other produce and manufactures we import from thence; from Denmark, for timber; and also from France, Hamburgh, and Holland, and other countries, for corn, brandy, gin, wine, butter, cheese, and various articles imported into this country. The completion of the bills shows what they are drawn for: I therefore conceive, if the trade between this country and the Continent should cease, it would not be for the benefit of the American trade. At one period, however, in the early part of the French revolution, and during the worst times, their specie and plate did come here as remittances on American account; it was then plenty in France, and there was little export of merchandise at that time. Q. If the Berlin Decree could be made effectual, to cut off all intercourse between England and the Continent, we could no longer have the benefit of bills in return for the American trade to the Continent, to pay for our exports to America?—*A.* I think not; we must rely on specie, if it was to be procured.

But the mischief would by no means have ended here. That large portion of our exports to the United States, which has been sent in return for their native produce, must have been diminished in proportion as that produce was formerly imported here, and bought by our merchants, not for our own consumption, but for reexportation to the continent of Europe. —More than half of our annual import of one of the chief staples of America, tobacco, has been the subject of such reexportation, and can only so be disposed of*. On the whole, it has been estimated by an honourable Member, a zealous opposer of the Orders in Council, that between four and five millions of our annual exports to the United States, taking them at an average of eight millions, have been paid for by the returns of the trade carried on by American merchants, or by ourselves in American produce, to the continent of Europe†.

It is obvious, Sir, that all exportation from this country to the Continent being cut off by the Berlin Decree, we must, if our retaliatory Orders had never issued, have lost so much of our export trade to the United States as those continental returns before used to pay for, even though we had been relieved from the Embargo and the Non-importation Act. We could not supply America gratuitously; and therefore our exports must have fallen off with her means of payment. She must, in future, have carried all that part of her tobacco and other products, which we formerly imported, but did not consume, directly to the Continent; and taken her returns from thence, not from this country.

The loss thus incurred would have been final and irretrievable. The use of continental manufactures, as substitutes for our own, must have been encouraged, and, in a manner, forced upon the American and West Indian consumers. Our habitual preference in the mar-

* This is Mr. Baring's estimate, in his Inquiry into the Causes and Consequences of the Orders in Council, p. 143.

† Ibid.

kets of the United States would have been lost for ever.

These, Sir, would have been natural and sure effects of the security, facility, and advantage, of taking returns for the products of the New World and of the East Indies directly from the Continent, compared with the risk and consequent heavy charges to be sustained by trading in the same way with the blockaded British islands.

But if the interest of neutral merchants, as governed by the Berlin Decree, had not sufficiently insured effects thus destructive of our commerce, the enemy had an effectual expedient in reserve, of which general Armstrong, in a note to M. Champagny, has kindly reminded him. France had only to prescribe, that all Neutral vessels trading to her ports should take the returns for articles imported by them, exclusively in her own goods and manufactures, and to impose the same system on the other maritime powers of the Continent. Such a measure the American ambassador holds to be clearly agreeable to the law of nations; and to be sure we could not, consistently, have objected to that further step, if we had submitted to the Berlin Decree.

See here then, Sir, a simple and infallible mean of ruining your commerce on both sides of the Atlantic. The West Indian and American produce, together with the East Indian goods, brought by American merchants to the continent of Europe, have largely exceeded in value the goods they carried from the Continent in return; and the excess would naturally be much greater, when a large part of their export trade to this country should, by the causes I have noticed, be transferred to the Continent. An exclusive consumption therefore of continental goods and manufactures, in their own home markets, in the foreign West Indies, and in Spanish and Portuguese America, would become absolutely necessary to the interests of American commerce. The merchants of the United States could no otherwise dispose of the additional returns, which by this arbitrary system they would be obliged to take. Their

profitable trade in the produce of South America, and of the foreign West India Islands with Europe, must be renounced by them, in proportion as they continued to import the manufactures of England. The profits of that outward trade, on the other hand, would enable them to carry back continental manufactures at a very cheap rate; and to sell them at prices which the importer from England could by no means afford. The American and West Indian markets, therefore, would be filled and glutted with manufactures, the rivals of our own; and a consumption would be forced in their favour in every part of the New World.

We have already been much supplanted, Sir, in the West Indies, especially in the supply of the Spanish colonies, by means of Neutral commerce. It is notorious, and is in evidence before you, that this disadvantageous effect has flowed from our permitting the carriage of the produce of those colonies, under Neutral flags, to Europe, and the carrying back the returns in continental manufactures, for the supply of those colonies, through America*. This has

* The following extracts from Mr Inglis's evidence, parts of which were here read by Mr. Stephen, seem well worthy of insertion:—

Q. Are you acquainted with the nature of the trade from this country to the foreign colonies, through our free ports, in the West Indies?—*A.* I was very well acquainted with it at one time; I exported goods to the West Indies for that purpose. *Q.* Has that trade lately increased, or declined?—*A.* It has with me totally declined since the year 1795 or 17 6. *Q.* As far as your information goes, has that been generally the case with merchants connected with that trade?—*A.* I believe there has been, since that time, some degree of it in the Bahama Islands; but I believe the great trade of Jamaica has almost ceased, particularly since the year 1800. *Q.* To what cause do you ascribe the falling off of that free-port trade?—*A.* I believe it has been chiefly taken up by America. *Q.* Do the Americans supply the foreign colonies with those manufactures and goods that used to be sent through our own free ports to the foreign colonies?—*A.* I think they do: I wish to state at the same time, that part of those manufactures are imported by America from this country; but a considerable part is imported by America from Holland, Germany, and Russia. When I exported goods of that sort, a considerable proportion of those exports were imported into this country

been one of the fruits of the relaxation of your belligerent rights, which you are unjustly accused of straining with too

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from Germany; and there are considerable manufactures in Holland and Flanders, of goods adapted to that market, which we imitated in this country to a considerable degree of perfection.—We have heretofore had a portion of that trade during peace, and a greater during war; the merchants who have resided in the West Indies are well acquainted with it. There are two sorts of trade, I believe; one called the forced trade, a trade lately licensed by the governors in our islands, but the greatest part was carried on by Spaniards, coming in small vessels from the Continent, or their islands, with specie, cochineal, indigo, and other articles admitted under the free-port acts; leaving them in our islands, and taking away those articles of manufactures. *Q.* While that trade continued we received specie, indigo, and other valuable produce from the Spanish colonies?—*A.* Yes. *Q.* Of course these imports have diminished in the same degree with the exports from the free ports?—*A.* They certainly have; from our colonies they have come to us from America, or some of them directly into Great Britain, from the foreign colonies in American ships. *Q.* You say that we had more of that trade in time of war than in time of peace; how has it happened, that during the present, and late war, that trade has declined?—*A.* It has happened from the trade having been taken up by Americans; it has, I believe, been carried on to a considerable extent from most of the southern ports of America. *Q.* Do you apprehend that the trade carried on from America to the Continent, produces any considerable returns of foreign manufactures for the supply of the Spanish and other foreign colonies?—*A.* As far as these manufactures are of linen, I believe it does exclusively. Cotton manufactures adapted to that trade, and some other articles manufactured in Lancashire and about Glasgow, are exported from this country to America; and I stated before, that some were formerly exported from this country to the Bahama Islands; I fancy they have part of that trade yet; and I believe the trade to Jamaica is about reviving, in consequence, I suppose, of the Embargo in America: I have had an opportunity of knowing that goods adapted to that trade have, in the last week, been brought here from Glasgow to be exported to Jamaica, there being no ships in that port bound to Jamaica at present. *Q.* You state that to be the effect of the American Embargo: Do you not suppose that our Orders in Council, by preventing the direct trade to the Continent, would also conduce to that effect?—*A.* No doubt, as far as the trade should be restricted in America, they would take up that part of it; but we could not furnish those goods which would be imported from the Continent for that purpose, the ports not being open to us. *Q.* The goods which are sent from the Continent for the supply of the foreign colonies could not, in that case, be carried through this country?—*A.* No.

much rigour. But under that improvement of the hostile system which General Armstrong recommends, your exclu-

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Q. Are not those goods in great measure the rivals of our own, in the markets of our foreign colonies?—*A.* Certainly; the manufactures of linen are the rivals of our Irish, Scotch, and Lancashire manufactures; and a great part is checks, made in Brabant, or Holland, which we have imitated here; and we have made up Irish linen in the form and shape, which has been usually exported from Germany for that purpose. *Q.* Is it within your knowledge or information that the German linens have lately been in very great demand in the Spanish colonies in preference to our own exports more than they formerly were?—*A.* I conceive they have, from the circumstance of the exports of those articles to America having increased very much. I have formerly furnished credit to America to purchase those articles, when they had not funds in Hamburgh for that purpose. *Q.* If France were to enforce strictly the system of obliging American vessels importing there to carry back wholly the produce and manufactures of the Continent in return, what in your judgment would be the effect upon the trade of this country to America, and to foreign colonies?—*A.* It would no doubt lessen the exportation of these articles from this country, in the same proportion as France could furnish them; it would at least enable France to rival us in that respect. *Q.* If the Berlin Decree were strictly enforced, so as to prevent the trade between this country and the Continent in American vessels, and to oblige American vessels to go directly to the Continent, and to return directly from the Continent, with produce and manufactures, would not that tend to cut off our own market in America, for the exports we have usually sent there?—*A.* It would no doubt, as before mentioned, so far as France could furnish the articles which have usually been exported from this country. *Q.* If America were obliged to take from France full returns for all the colonial produce and East India goods she sent there, would it not be necessary for the American merchant to force a market in his own country, and in the foreign colonies?—*A.* No doubt it would: the American merchant must either take manufactures or specie from France. *Q.* I suppose that she could not obtain specie, but must take the manufactures of the Continent?—*A.* No doubt it would diminish the export of those articles from Great Britain. *Q.* Would it not necessarily lead to a substitution of Continental articles in the American market for our manufactures exported from England?—*A.* No doubt it would. France cannot furnish America with some articles of our manufactures: our woollen manufactures she has not the material to furnish her with to the extent we have; and if she is cut off from the importation of cotton wool, that trade must remain with us also; but so far as the staple is within herself, they will no doubt rival us;—and they have done that already, in a measure. The American trade is not now restricted to us, as it was when they were dependencies; they buy what

sion from the markets of all foreign America would be complete, and final.

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they please only of us. Our American trade has been restricted to those articles in which we can rival all other countries in the manufacture. *Q.* Does not the large export of East India goods and colonial produce from America to the Continent, necessarily make America the worse customer to England in the consumption of our manufactures, and the better customer to the Continent?—*A.* No doubt of it. *Q.* The exports we used to receive from the Spanish Colonies, you state to have been in good measure in specie, indigo, and other valuable articles?—*A.* It has been the policy of the free ports to bring specie into our Colonies. Dye-woods, and the materials for our manufactures, drugs, and other articles have also been admitted. *Q.* In the event of the American Embargo continuing, or any state of things, between this country and America, which prevented their trading to the enemy's colonies, would not the amount of our exports to those free ports be considerably increased?—*A.* I conceive they would. *Q.* You have stated that our manufactures have imitated most of the foreign manufactures made on the Continent, such as checks and stripes?—*A.* They have the linen manufactures. *Q.* Is it not within your knowledge, that during the last war, while the misunderstanding between France and America continued, great quantities of those imitations were shipped to the West Indies?—*A.* Yes, I exported them to Jamaica pretty considerably. *Q.* Have you exported any of those imitations of foreign manufactures lately?—*A.* Not for some years back. *Q.* To what do you attribute this suspension of those exportations?—*A.* To the falling off of the free-port trade. I was connected with persons engaged in that trade: I can state that of late years, hardly any were exported; and it appears to have been falling off from the year 1794 and 1795, particularly till 1800; and since that time I have not exported any myself. *Q.* If during the period there was a misunderstanding between America and France, which prevented her accustomed trade with the Continent, those imitations of the foreign fabric were exported from this country to the West Indies, and none are exported now, do not you attribute the falling off of that trade to the foreign Colonies being supplied by America with continental manufactures?—*A.* Certainly. *Q.* You are engaged in trade to Trinidad, are you not?—*A.* I am. *Q.* Can you form any idea of the diminution of the export to that free port?—*A.* I certainly have not for these two years back heard of any freight for that Island, except plantation stores, and articles for the use of the Colony. I have not shipped goods myself for sale at Trinidad, but only for the plantations there. *Q.* Do you ship any East India goods to Trinidad?—*A.* None. *Q.* Do you know of any East India goods finding their way to Trinidad through other channels?—*A* I have heard that very considerable quantities of East India goods have been introduced to Trinidad from America.

Notwithstanding the late revolutions in the Portuguese and Spanish colonies, they would be obliged to send their produce to the continent of Europe, where alone a market could be found for it; and must be content to take such returns as the Neutral carriers would be forced by the enemy to accept. We have no consumption for their products, cotton excepted; and, being cut off from all intercourse with the Continent, could not offer them an intermediate market. We could not import foreign sugar and coffee as formerly, to re-export it on our own account to the Continent, and bring the proceeds from thence, to be returned in the form of British manufactures to America. If then, by a repeal of our Orders in Council, Neutral vessels could carry directly and safely from ports of the United States to the continent of Europe, beyond doubt that would be the only course of commerce for the rich exports of the New World, and foreign manufactures alone would be received there in return. We should soon have no trade beyond the Atlantic, that of our own Colonies excepted. We might perhaps continue to import from the United States, such articles as we ourselves consume; but even for these, should find it hard to pass our own manufactures in payment.

Sir, I took occasion in the last session of parliament, to open generally these alarming views; and to show that such would have been the baneful and certain consequences of submitting without retaliation to the French Decrees. I observed that France had only to take one step more, to which we could not, in that case, consistently object; that she had only to prescribe to Neutrals trading to Continental ports, the taking their returns in Continental goods exclusively, and as a commercial nation we should be undone; that there would then soon be an end of our export trade with America, as well as with Europe.

General Armstrong's note, to which I beg your attention, now shows that he agrees with me in those views. He sees

and holds forth to the attention of the enemy, the same infallible consequences of such a measure, though he does not expressly state them to their full extent. "Does His Majesty fear (he says) that the balance of trade, arising from this renewed industry, would go to the advantage of England?—Means are certainly not wanting to prevent this consequence. Would it not be entirely avoided, by making it a condition of the commerce in question, that all ships leaving France shall take, in some article or articles of her produce or manufactures, the full amount of the cargoes they bring hither?"

"Ships sailing under this regulation," he adds, "would, or would not, go voluntarily to England. If they went voluntarily, it would only be because that country afforded the best market for the productions of France; in which case the habitual results would be entirely changed; and England, ceasing to receive a balance for her manufactures, would begin to pay one to the United States on the productions of France. Could France (he reasonably asks) wish a state of commerce more prosperous than this?"

He states the effect of the other alternative, in a way which I shall have occasion to notice hereafter; but observes that in the case first supposed "the wants of France and her colonies would not only be regularly supplied, but she would herself become an entrepôt for the supply of the Continent *."

This suggestion, however, Sir, certainly of no very amicable nature towards this country, was unnecessary for the information of France. Buonaparte had long before perceived that he might crush our commerce by such a system, provided he could first effectually lay the necessary foundation for it, by carrying the Berlin Decree into execution on every part of the Continent, and could deter us at the same time, by

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* Letter from General Armstrong to M. De Champagny, August 6th, 1808.

the fear of a quarrel with America, from a retaliation which would deprive him of the free use of her flag.

I cited, in the last session of parliament, a French state paper in which this policy was clearly developed; and was shown to be the measure relied on for destroying the commerce of England, in peace as well as in war*. It was published soon after the occupation of Portugal, and did not conceal that the

* This paper appeared in the Moniteur of Dec. 5, 1807, and was copied into the London newspapers of January 20, 1808. It contains the following passages: "It is a very important success for France to have deprived the English of the excellent ports of Lisbon and Oporto. A new portion of the ancient continent will be purged of the English influence.' If the independence of the United States has been useful to France, the new establishment of the house of Braganza in another part of the new continent, also prepares to her great advantages. The relations of the court of the Brazils with Portugal, the commercial connections which it will be obliged to form with Europe, will turn to the profit of France and her Allies."

"What do the Brazils produce? Cotton, and other articles, similar to those which are received from the Colonies. Other markets must be found for them, for England already overflows with colonial produce. These markets will be looked for upon the Continent; they will be found in France, for the supply of our manufactories, and for our consumption; and these operations, in place of being effected by the intervention of Lisbon, will be done with France; and by these means will insure to us, besides so many advantages, the profits of a direct trade."

The paper proceeds to allege that English calculators had foreseen these effects, and that to prevent them, our Orders in Council of November had issued. It next speculates on the resistance of America, and that we shall be obliged to recede from those restrictions on Neutral trade. "But the United States have too much energy, not to do all that is necessary for the protection of their flag. If, as it must be hoped, they succeed by negotiation to obtain the renunciation on the part of England of her pretensions in this respect; if they cease to be subjected to the absurd and tyrannical laws, which only tend to the alienation of their trade, England will have the humiliation of being obliged to revoke her inconsiderate measures: then the American trade, carried to the highest degree of prosperity, will abundantly furnish us with all kinds of raw materials, and the necessary articles wanted for our consumption, *whilst they will take in exchange the produce of our manufactories which they are in want of.*"

The paper next supposes on the other hand, that we do not give way to the demands of America by repealing our Orders in Council, and in

usurpation of that kingdom was essential to the plan formed for our destruction, and would, in spite of the independency of Brazil, contribute to it, if our Orders in Council were repealed.

France indeed had disclosed the same system at a still earlier period. In the celebrated work of Hauterive*, this very measure suggested by General Armstrong is pointed out as the expedient to which France and her allies must resort, to pull down the maritime superiority of England. My late learned friend before alluded to, whose loss we all deeply lament, long ago called the attention of parliament to that important work, as an exposition of the hostile system with which we must prepare to contend, in peace as well as in war. It is the avowed policy of France, Sir, to exclude us from maritime commerce with every country under her dominion or influence. In war, this cannot be done, on account of our naval preponderance, without the aid of the Berlin Decree, and the concurrence of America. But our acquiescence in that decree would be immediately followed by the adoption of General

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that event, holds out the prospect that the Americans may still trade with the Continent, by means of armed vessels; and then follow these remarkable passages: "That country which has most consumers, can always command the trade; and France, enjoying her independence in its utmost extent, the first condition of any peace to take place would be, to establish such custom-house regulations, as that those who should bring cargoes, should be obliged to make their returns in the produce of our soil and of our industry. If measures so useful were not in former times adopted, it must be attributed to the influence which the cabinet of London had obtained over that of Versailles, whose weakness made it yield to the first menace of war. Was it when France was obliged to destroy Dunkirk, or submit to a treaty of commerce shamefully unequal in its conditions, that she should establish her navigation act, and combine her custom-house regulations, in such a manner as to assure all the advantages of her happy situation?"

* De l'Etat de la France, à la Fin de l' An VIII. Published at Paris in 1800. Hauterive was in the department of foreign affairs, next in authority to Talleyrand; and the work was regarded as an official exposition of the general foreign policy of France.

Armstrong's advice, and there would then soon be an end of our commerce.

It is here then, Sir, that I take my stand. It is on this ground, that I must oppose any concession to America which would leave the Berlin Decree in operation, unresisted by our Orders in Council. It would, as I have shown, not only exclude us from the ports of Europe, but from the trade of Portuguese and Spanish America, and from that even of the United States themselves. It would, in short, destroy our maritime commerce, on which not only our revenue in a great degree, but our navy, essentially depends. I would do much, very much, to avoid a quarrel with America; but we cannot afford to avoid it at the expense of ruin to our manufactures, to our commerce, and our maritime power.

There may, perhaps, be a latent source of difference between the honourable Gentleman and me on this subject, in our different views of the nature of the awful contest in which we are engaged. He, as we sometimes incidentally learn from him, supposes it practicable to make a safe peace with France. I wish he would bring that great subject directly before us; that we might discuss it as freely as its importance deserves. He would then no doubt find it necessary to open his practical views; and to show us how the safety of the country is to be reconciled with such a state of things as he calls peace, in the present posture of France and Europe, and with such means of interior defence as we now possess. I do not hear from him any proposal to arm our population in general, or to carry our military establishment beyond its present amount. Yet he is not afraid of opening the sea to France; of giving to a power bent on our destruction, a power which possesses or commands the whole coast of the ocean from the capes of Norway to the Straits of Gibraltar, with almost every port in the Mediterranean and the Baltic, the full use of all her enormous commercial faculties, and the means of restoring her marine. He cannot think then, as I do,

that our present maritime ascendancy is essential to our safety; and consequently is not so much afraid as I am, of concessions which would annihilate our foreign commerce, and thereby produce the ruin of our navy.

Let the case, however, at least be fairly understood;—let the people of England know what price it is proposed to them to pay for a reconciliation with America; and not be taught to ascribe to our retaliatory system, those evils to which a departure from it would certainly subject them.

Having said thus much, Sir, as to the policy of the Orders in Council, I proceed to say something of their justice. This is denied by the honourable Gentleman; and he need not have apologized for advocating what he deemed to be just complaints against us. I fully believe his professions, that though he disputes our rights, he would not be backward, in time of need, to support the cause of his country. In those extreme duties of patriotism to which we may probably soon be called, I doubt not he would give as honourable an example as any Englishman could wish to follow; but I wish he would not be so led away by his liberal nature, as to suppose his country always in the wrong, merely that his candour and disinterested love of justice may have ground to act upon.

My late learned friend, the loss of whose support he regretted, never maintained such opinions on this point as those of the honourable Gentleman. He expressly admitted, as I have already remarked, our right of retaliating the Berlin Decree; resting his opposition to our Orders of November, on the alleged non-acquiescence of America in the enemy's aggressions. He did not question the justice of the Order of January; which indeed can hardly be supposed to have been framed, under the late administration, contrary to his opinion. But the American government complains of this, not less than of the November Orders; and the honourable Gentleman expressly arraigns them all. He is one of the very few, I ad-

mit, who can consistently do so; and deserves praise for that independency of opinion which leads him to condemn, in this instance, the conduct of his political friends.

I do not mean, Sir, to go fully into those arguments so amply stated and discussed on former occasions, which show the right of a belligerent to retaliate the violence and injustice of his enemy; and the duty of a neutral to observe an impartial conduct, by submitting to the same treatment from the one party, which, to his prejudice, it has submitted to receive from the other. These general principles have been often and clearly demonstrated, as well from reason as authority. But I would notice one objection which has been loudly made, and which the American Government reiterates in the papers before you. It is alleged that history has no example of such a measure as our Orders in Council. They are said to be wholly unprecedented, as well as unjust.

Sir, if this were true, it would be a sufficient reply, that the Decrees which we so retaliate and counteract are also without a precedent. If the general right of retaliation is admitted, the want of precedent for a specific application of that right, is no sound objection to it, unless it can be shown that the original wrong has examples in history, in which the injured party had power to retaliate, but omitted to do so.

It is quite impossible here to find any such case. If a belligerent has unlawfully prohibited the commerce of Neutrals with his enemy, it has been when his own great naval superiority gave him power to enforce the prohibition; and when the other party in consequence did not possess the power, or the motive, though he had clearly the right, of retaliation. To adopt the same system, would in such circumstances evidently have been useless, and even mischievous, to the weaker belligerent.

It was reserved for the unspeakable arrogance of Buonaparte, to place the maritime commerce of his enemy under an interdict, when that enemy was so far from being his inferior in naval force, as to have the undisputed command of the ocean. His unexampled effrontery alone could have presumed

to declare a blockade of the British Islands, when his flag, chased from every sea, durst not show itself for a moment on any part of our coasts. This proceeding is too extravagant to have arisen from any degree of injustice or insolence short of his own. History, therefore, can furnish no precedent for the wrong; nor did it ever enter into the mind of any writer on the law of nations to imagine, by way of hypothesis or illustration, so extreme a case.

But what will the honourable Gentleman say, if in the instance of a wrong bearing no proportion to that which gave rise to our Orders in Council, I can show him a precedent of a much stronger retaliation? This I can do, and without adverting to any technical sources of information. I need only refer him to a celebrated historical work in every gentleman's library—Dr. Watson's History of Philip III.*

In the revolutionary war which the United Provinces maintained against Spain, and which ended in their independence, they were long suffered to carry on the commerce which they before possessed with the ports of Spain and Portugal. They traded largely between those ports and the north of Europe; supplying the Portuguese and Spaniards with corn and other northern productions; and receiving, in return, the produce of South America and the East Indies. Philip II. had not attempted to deprive them of this important commerce; and "the Dutch (says the Historian) found no other precaution necessary but to sail under the flag of some Neutral power at peace with Spain." At length, towards the close of his reign, being exasperated at the long continuance of the contest, the king published an edict prohibiting his subjects in Spain and Portugal from all commercial intercourse with the revolted provinces. But this edict, like the Berlin Decree after its first promulgation, was neglected in practice, and produced no

* See also Grotii Annales de Reb. Belg. lib. viii. where the facts are related, but not so fully as by Dr. Watson.

effectual interruption of the trade. Soon after the accession of Philip III., however, the prohibitory edict was republished, with additional strictness of regulation, and guarded by the severest penalties; just as the case was with the Berlin Decree, in the summer and autumn of 1807.

"By the advice (says Dr. Watson) of the count de Fuentes, a nobleman of great abilities, but naturally haughty and severe, and extremely ignorant of the commercial interests of his country, the prohibitory edict was carried into the most rigid execution. A strict inquiry was made in all the seaport towns of Spain and Portugal, whether any of the Dutch had come thither under the colours of any Neutral power: and as a considerable number were found to have been guilty of this temerity, their ships and goods were confiscated, and they themselves cast into prison or sent to the galleys, &c."

Now, this, Sir, according to our modern ideas, may be said not to have amounted to any infringement of the law of nations. That the Dutch treated it as such, seems only to be accounted for upon a rule for which they early and strenuously contended as part of the general maritime law,—the maxim that free ships make free goods. Holding this principle, and at the same time regarding trade with an enemy as lawful, they probably thought that the neutral flags under which they traded, ought to protect their commerce even in Spanish ports; and therefore considered the edict as a measure which, for the sake of destroying their commercial resources, violated the rights of neutral powers.

Such, however, was the real or supposed aggression of Philip III.; and what was the conduct of the States General? I will state it in the words of the historian. "They published an edict, in which, besides prohibiting all intercourse between their subjects and those of the king of Spain, they declared they would treat as enemies, the subjects of all neutral powers who should carry commodities, of whatever kind, to the ports of Spain, Portugal, or Flanders."

The countries, Sir, whose trade was deeply affected by this edict, were by no means so weak as to be unable to resist, or to be injured with impunity. France was then neutral; so were the Hanse Towns, and most other maritime countries in Europe. What then was the consequence? Non-importation Acts, Embargoes, or threats of war? By no means. I will continue my quotation. "To this manifesto, copies of which were sent to the courts of the several maritime powers, no answer was returned, nor any objection made by the states or princes who received it; and the French monarch gave on this occasion a striking proof of his favour for the Dutch, by publishing a declaration, that if any of his subjects should, for the space of six months, adventure to trade with Spain, they must do it at their private risk, without the hopes of his protection."

Such, Sir, was the conduct of Henry IV. of France; a prince sufficiently high spirited, and tenacious of his honour, and certainly not likely to suffer the rights of his people to be invaded at the expense of the law of nations. He not only acquiesced in this retaliation of the Dutch, but lent them his aid to enforce it, as far as his pacific relations to Spain would permit. The silent acquiescence of the other neutral powers, is hardly less expressive of their opinions of this Dutch *Order in Council*.—All appear to have admitted its justice.

It is impossible, I think, to account for this general conduct on any other principle than a sense of the right of retaliation. They regarded Philip's edict, whether correctly or not is immaterial to my purpose, as a wrongful aggression; and therefore admitted that the Dutch might justifiably in return cut off the commerce of their enemy, though at the great expense of neutral navigation. They certainly would not have acquiesced in this measure had it been of an original character, and unprovoked by Spain; for when at other periods the Dutch, and even the Dutch and English in alliance,

attempted to restrain generally all commerce with their enemies, the Neutral powers resisted, and the attempt was abandoned. Vattel, and other eminent foreign jurists notice those cases with reprehension; but I am not aware that any one of them has condemned this retaliatory expedient of the Dutch when provoked by the edict of Spain *.

Here then, Sir, we have not only a precedent for our Orders in Council, but one which far exceeds them in the measure of retaliation; though in a case of aggression that is not at all to be compared with that of France.

It might, indeed, have been reasonably contended in that case, that there had been no aggression at all.—Had General Armstrong been at the court of Philip, he would no doubt have told him, Your majesty has an indisputable right to do this, as a measure of municipal legislation: and certainly with much more reason than he held such language in his friendly suggestions to M. Champagny. But it seems that the neutral powers of Europe made no such distinctions, nor at all controverted the right of the Dutch, so to defend themselves, against a measure which threatened their commerce with destruction†.

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* See Vattel, Law of Nations, book iii. chap. 7. See also Grotius de Jure Bel. ac Pac. lib. iii. chap. i. s. 5., and the notes.

It might have been added, that England under Elizabeth had recently resisted an attempt by the Dutch when provoked by no previous aggression on the part of their enemy to restrain the trade of her subjects with Spain.

† Mr. Whitbread in reply suggested, that the conduct of the States General in the case cited, had been noticed with censure by the late lord Liverpool, in his Discourse on our Conduct towards Neutral Powers.

It is true that his lordship, when enumerating, in opposition to the complaints of the Dutch, instances in which they themselves had denied the general freedom of neutral trade with their enemies, notices incidentally the case here cited, as one of those in which he says that Holland "had sometimes prohibited the commerce of Neutral nations beyond all justice and moderation." But his lordship's censure plainly supposes that the Spanish edict had given

Neither do I find that this Order in Council occasioned any party disputes in the States General. They also, Sir, had their parties. They had their Maurices, and their Barnevelts; their peace party, and their war party: but though they differed widely among themselves on other subjects, there seems to have been a perfect unanimity in respect of measures necessary to the defence of their commerce and maritime power. Yet resistance in that case was not more a duty of

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no ground, or colourable pretence whatever, for that of the States General. He states the latter to have been issued in revenge for a prohibition of the Government of Spain, merely forbidding the subjects of the United Provinces from trading to the ports of that kingdom. "A liberty, (he adds,) which had unaccountably been allowed to them from the commencement of their revolt to that period." His lordship does not at all advert to the material circumstance, that they had traded in ships bearing neutral flags, and really or ostensibly neutral; or reflect that the Spanish edict and confiscations, according to some prevalent but unsettled notions of that age, might have been regarded as restraining the legitimate range of neutral commerce; a construction which the long previous acquiescence of the Spanish Government must naturally have tended to support. Lord Liverpool's stricture, consequently, had no reference to the right of retaliation; a right which, as is evident from the general spirit of his work, he would have been very far from questioning in a case like the present.

It should be observed that this precedent was not cited as a legitimate application of the right in question; but only to repel the assertion that the Orders in Council were in fact unprecedented. The acquiescence of the neutral powers, however, when compared with their conduct in nearly cotemporary cases of unprovoked restrictions, makes it a precedent of no small weight; and that whether we consider the Spanish edict as a real infraction of the law of nations, or as erroneously conceived to have been such. The latter certainly was the case according to principles now generally admitted; but the questionable nature of the original wrong, makes the acquiescence of neutral powers in the retaliatory measure, a stronger, rather than a weaker recognition of the general right to retaliate, where a wrong has really been done. An acquittal on the plea of self-defence, would not be the less forcible in point of precedent, to prove that our courts admitted such a right, because it might be shown that in the particular case, the first assault was not really unlawful, but justifiable under some special authority.

self-preservation with the Dutch, than it is with ourselves at the present period. Their maritime resources were necessary for their support in their revolutionary struggle for freedom; but ours are at least equally so, in this arduous contest with France for our national existence.

The honourable Gentleman has said, that the greatness of this country is factitious; and though I do not like the word, I agree with him in the meaning.—The power and greatness of this country certainly far exceed the natural effect of our share of population and territory. They depend much on artificial and external causes; and especially on our commerce, and our navy. In this view, not our greatness alone, but our safety also, is factitious. Our chief security against invasion and subjugation is our decisive superiority at sea.—But this cannot long survive the loss of our maritime commerce. We cannot therefore, without danger to our existence as a nation, submit to a system by which that commerce would be soon, and totally annihilated.—Much and sincerely as I desire conciliation with America, I cannot consent to purchase it at that price.

Independently, Sir, of all precedent, and all authority, can it be seriously thought that we are bound in point of principle, to submit to be ruined as a commercial people, and by a hostile system expressly directed to that end, while we have the means of resistance in our power?—While our flag is triumphant, and unresisted on every sea, this audacious enemy proclaims war against our commerce; and claims a right to exclude it from every part of the Continent. He even declares that there shall be no Neutrals in Europe. He insists that nations in amity with us, shall banish us from their ports; and if they refuse or hesitate, he invades their countries and subverts their thrones, to enforce compliance. But his use of the American flag is necessary to give effect to this atrocious system; he can no otherwise carry on trade between the different countries under his dominion and influence, and reap the full

fruits of his usurpations. Indeed he can no otherwise effectually prevent a contraband trade with England; for the necessities of the Continent would be too strong for all the precautions he could use. It is in this enormous, this unexampled case, that we are told it is our duty to submit; and that the rights of neutrality entitle America thus to give effect to a plan, avowedly concerted for our destruction, and that of neutrality itself. Sir, the proposition is too extravagant and insulting to deserve a serious refutation.

I do not find, indeed, that the American Government denies, though it does not expressly admit, the general right of retaliation. The complaint rather is, that we have exercised it in a case where we had sustained no practical injury; and against a neutral power which had not acquiesced in, but resisted, the Decrees for which we retaliate.

Sir, it is this complaint that makes the evidence before you of peculiar importance. The people of the United States may be convinced by it, when truly stated to them, that our retaliation was founded on no nominal, or imaginary wrong; that our European commerce was actually overthrown by the Berlin Decree, before we resorted to that remedy, of which they have been taught by false representations to complain. They may be satisfied, that even in our direct intercourse with themselves, our commerce felt the bad effects of that Decree in the advanced rate of insurance. They will not be so inequitable, I am persuaded, as to think that it was our duty to submit even to disadvantages of that kind, when imposed on us by the injustice of France, at the expense of the rights of neutrals.

It is alleged by the American Government, that the case of the Horizon, in September, was the only instance in which the Berlin Decree had been executed, prior to our Orders of November; and that even this was unknown to us at the time; but the fact has been demonstrated to be, that during two months prior to those Orders, the Berlin Decree had been effectually

executed, to the total ruin of our European commerce, and to the general prejudice of our trade even with America herself.—It is not therefore on the case of the Horizon, or any other particular captures, that our justification rests. We stand on a much broader ground, in respect of the actual injury sustained, if actual precedent injury was necessary to justify our retaliatory Orders.

The complaint of America, then, Sir, is reduced to the point of non-acquiescence.

The honourable Gentleman assumes, not only in his argument, but in his proposed address, that the acquiescence of America in the French Decrees, was the only ground on which any right could accrue to His Majesty to interrupt her commerce with the enemy. But this, Sir, is a proposition which I can by no means admit.—If true, let the House advert for a moment to its consequences. Admitting that the acquiescence of America is a necessary foundation of our right so to protect our commerce against the enemy's injurious Decrees, it follows in the first place, that we must wait after any such measure is adopted on his part, and submit to all its effects, however ruinous to ourselves, till it is seen whether America will acquiesce or not.—Indeed this consequence is expressly contended for by the American government. We are arraigned of injustice, for having proceeded to retaliate before the French Decrees and the execution of them could be known in America, or long enough known there to afford time for her resistance.

I will presently examine the grounds of this complaint; which, as applied to our Orders of November, is not founded in fact. But if it be supposed that we are bound to wait for the decision and the conduct of that distant power, it is plain that France may at her discretion interrupt our commerce, for several months at least, by the grossest violations of the rights of neutral nations; and enjoy herself during the same period, in spite of our unresisted naval superiority, all the

benefits of neutral navigation and trade.—Those benefits will even be improved to her at our expense. She will obtain much of that neutral commerce of which we, by her own injustice, are deprived. The ships of America will be trading freely to and from French ports, and between these and the New World, while excluded, by Decrees injurious to their flag, from all the ports of His Majesty's dominions. It is maintained that we are bound passively to submit to this gross inequality and disadvantage in the war, however pernicious or destructive to our vital interests, until the aggression can be known in America, and until the government of that country, negotiating at its leisure across the Atlantic, can prevail on the enemy to repeal his audacious Decrees! We are then to rest satisfied with that tardy redress, though all the mischief that we have sustained in the meantime is unrepaired! Indeed, what reparation could possibly be made to us, for so ruinous a suspension of our commerce?

A general consequence of this strange principle would be, that the great distance of a neutral state, is an inconvenience which must fall severely and exclusively upon the belligerent who respects its rights; and redound to the advantage only of the opposite belligerent, by whom they are invaded. The less able a power, in respect to its position, is to vindicate the laws of nations against my Enemy, or to protect me from the fatal effects of their violation, the longer must the neutral rights of that Power restrain me from using my own means of counteraction and defence!

A source of much false reasoning, Sir, on this subject, is the regarding the Orders in Council as measures of a vindicatory kind.—If they had been such, in relation to the neutral merchants affected by them, nothing to be sure would be clearer, than that the neutral governments ought to have had notice before any such measures were adopted. But when the Orders are considered in their true intention, which was remedial, and self-defensive, it is

preposterous to suppose that the remedy ought to have been suspended till the mischief was irreparably done. We retaliated upon the enemy in order to parry a blow, aimed for the destruction of our commerce and our maritime power; and the right so to defend ourselves, if it existed at all, was immediate. We did not punish neutrals, as has been alleged, for the Enemy's injustice: we only prevented them from trading freely with a power which, in violation of the rights of their neutrality, prohibited them from trading with us. Their abstaining from commerce with him, while his injurious and insulting edicts were in force, was due even to the honour of their own flags, and was what their governments, on knowledge of the case, were bound to enjoin. They had in the meantime ample notice of our Orders, before they were liable to any seizure for carrying on commerce with France, though she had denied to them on pain of confiscation all intercourse whatever with England.

I deny then, Sir, that the acquiescence of America was any necessary foundation of our right to retaliate: I maintain that the right existed in its full extent from the time of the enemy's aggression. If the contrary was in any degree admitted, as has been alleged, in the note of Lords Holland and Auckland*, the admission was improper. But it is clear that His Majesty's late Ministers could not intend any such admission.—The preamble to their Order in Council of January 7, and the correspondence of Lord Howick with Mr. Rist, manifestly prove that they did not so much misapprehend the rights of their Country, as to think that we were bound to wait for the non-acquiescence or resistance of neutral Powers, before we resorted to the fullest retaliation on the enemy, though at the expense of neutral commerce†.

* Note of December 31, 1806, on signing the Treaty negotiated with Messrs. Monroe and Pinckney.

† In the letter of Lord Howick to Mr. Rist, of March 17, 1807, are the following passages, which are so decisive as to the opinion of

This was fully and clearly demonstrated by the right honourable Secretary of State* on a former occasion; and it would be idle and presumptuous in me, to show again, by a comparison of the papers on your table, a fact which his eloquence has placed in such strong and luminous views.

Our defence however, Sir, against this charge of precipitancy does not rest here. Though we were not bound to wait for the non-acquiescence or the resistance of America, we did in fact so wait. The feeble and inadequate measure of January, has been said, and perhaps with truth, to have been one which might have been justified on other grounds than retaliation for the Berlin Decree; and yet beyond this measure, we did not exercise our retaliatory rights, till about twelve months after they arose. The Berlin Decree was published in November 1806; and the Orders in Council,

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the British Government on the point in question, at a time when the administration of the day was eagerly disposed towards conciliation with the neutral powers, that it may be useful to insert them.

"The injury which would be sustained by Great Britain, if she suffered her commerce with foreign nations to be thus interdicted, whilst that of the enemy with them should remain unmolested, is so manifest, that it can require no illustration. It never could have been presumed that His Majesty would submit to such an injury, waiting in patient acquiescence till France might think proper to attend to the slow and feeble remonstrances of States not engaged in the war; or that he should forbear to take immediate steps to check the violence of the enemy, and to retort upon him the evils of his own injustice."

"His Majesty would unquestionably have been justified in resorting to the fullest measures of retaliation, in consequence of this unparalleled aggression; and other powers would have no right to complain, if the King had immediately proceeded to declare all the countries occupied by the Enemy to be in a State of Blockade, and to prohibit all trade in the produce of those countries: for, as the French Decree itself expresses it, the law of Nature justifies the employing against the Enemy the same arms which he makes use of.—If third Parties suffer from these measures, their demand of reparation must be made to that country which first violates the established usages of war, and the rights of Neutral States."

* Mr. Canning.

which are alleged to have been so unjust towards America, and to have occasioned the Embargo by anticipation, did not issue till November 1807. What term of forbearance then will satisfy the American Government? How long is our commerce to suffer under the effects of the enemy's illegal outrages, and of the acquiescence of Neutral Powers, if a whole year will not suffice?

It is asserted however, that the Government of the United States actually did resist the Berlin Decree; and even obtained satisfaction from France on that subject, as far as respected the neutral rights of America. It is admitted indeed, that Buonaparte afterwards totally disregarded those rights, in the execution of the Decree against us; but then the complaint is, that our Orders of November issued before America had time to learn, and to act upon, this new aggression.

Why then, Sir, supposing this statement for the argument's sake to be true, we are expected to submit not once only, but a second time, or as frequently as our Enemy pleases, to illegal interruptions of our commerce; and wait as often, till this distant neutral Power, through whose sides we are wounded, shall have leisure to expostulate, and obtain for us a temporary relief! How many times, Sir, is it supposed that the commerce of this country can sustain the shock of a sudden and long suspension of some of its principal movements, without being finally ruined? If France is not suffered to accomplish her object of destroying our trade by a continuous attack, she has only, it seems, to resort to an intermittent one. She may put a stop to our European exports and our manufactories for many months; then give way for a brief interval, and afterwards renew the hostile process for a period equally long, till an interposition from the other side of the Atlantic can be effectually repeated.

The partisans of America indeed pretend that the Berlin Decree had no operation prejudicial to our commerce in the first instance; but this has been clearly refuted by the evidence.

Besides, the Decree itself was an open, broad, and insolent attack on the rights of neutral nations; and if America had a right, as she assumes, to distinguish her own case from that of other Powers then neutral, at least she was bound, as far as respected herself, to demand that so express and insulting an interdict on her commerce with England, should be unequivocally removed. This, after a year's forbearance on our part, she had not obtained: what pretence then is there, even on the principles contended for by America herself, that when Buonaparte proceeded strictly to execute his audacious system, not by any new edict, but by enforcing that very Decree, we were bound to allow another year, or any further term whatever, for procuring its repeal?

But what, Sir, was the satisfaction really obtained by America from France? General Armstrong, the American minister at Paris, upon the promulgation of the Berlin Decree, asked, and obtained, certain explanations as to its meaning. They are contained in a letter from M. Decres, the French minister of marine, to General Armstrong, dated Dec. 24. 1806, printed in the papers before you; and so far is that letter from being satisfactory, that it is grossly evasive, and even unintelligible. It is impossible for any man who compares it with the letter of the American minister in answer to which it is written, and with the Decree itself, to say that such explanations could be at all satisfactory to any rational mind; or that they can bear the sense which the American Government chose to ascribe to them.

The first article of the Berlin Decree simply declares the British Islands to be in a state of blockade. This is a plain intelligible proposition; and its legal consequences are obvious. The known, and universally admitted effect of a blockade, is to cut off all commerce with the place blockaded, all ingress and egress of neutral ships from its ports, on pain of confiscation. General Armstrong, however, thought fit to ask, "Whether American vessels navigating the high or narrow seas, shall be liable to seizure, on evidence only that they

are going to, or returning from, a port or ports of His Britannic Majesty." What is the reply of M. Decres? "The first Article of the Decree of the 21st November," he says, "not at all changing the present French laws concerning maritime captures, there is no reason for inquiring what interpretation, or restriction, or extension, may be given to this article."

By a most unaccountable perversion of terms, this language has been stated to amount to a declaration that the Decree did not affect American vessels; and that they were exempt from its operation in right of their Treaty with France. But M. Decres is so far from saying any such thing, that he declines all interpretations of the article as unnecessary; and in a way too that plainly excludes all distinctions founded on treaty with America; for he refers to the general laws of France concerning maritime captures *.

The article declaring Great Britain blockaded, he says, does not change those laws. Do those laws then exempt neutral ships violating a blockade from capture?—Certainly not. All nations agree that this offence is cause of seizure and confiscation. Much controversy, indeed, has arisen respecting what shall constitute a blockade in point of law; but the Berlin Decree, having declared the British islands to be in a state of blockade, plainly bound the French prize courts to regard that blockade as legal; and the penalty of confiscation for a breach of it was what they were consequently bound to adjudge. The explanation, if it must be called one, confirmed, instead of contradicting, that obvious effect of the Decree.

The third article in the answer of the French minister is a palpable evasion and mockery. "An American vessel," he says,

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* The only mention in this letter of the treaty or convention between France and America, is in terms still more clearly exclusive of any such distinction. "The Decree, &c. conveys no modifications of the regulations at present observed in France with regard to neutral navigators; *nor consequently*, of the convention of September 30, 1800, with the United States of America."

"cannot be taken at sea for the mere reason that she is going to a port of England, or is returning from one, because, conformably with the 7th article of the said Decree, we are limited in France not to admit vessels coming from England or the English Colonies:" that is, a vessel of this description is not liable to condemnation under the 7th article of the Decree; her condemnation must be founded on the 1st.!

Such, Sir, are the explanations of M. Decres! They amounted rather to insult, than to such satisfaction as a Neutral Government ought to have required, supposing even that M. Decres had authority to give them; but he had not, and plainly told General Armstrong that he had not, any such authority. He expressly in this very letter refers to M. Talleyrand, who, as minister of exterior relations, was the proper official organ of the French Government to answer the General's inquiries. He repeats in a postscript the same reference; "It will not escape General Armstrong," he says, "that my answers cannot have the same development which they would receive from the minister of exterior relations; and that it is naturally to him that he ought to address himself for these explanations," &c. He adds, "that they were points upon which he himself had much less positive information than the Prince of Beneventum." Really, Sir, after this, it is hardly decent to tell us that the letter of M. Decres ought to have contented this country, even if his explanations had been satisfactory in their terms. The French Government was not responsible for them, so as to have been chargeable with inconsistency for acting diametrically opposite to them the next day.

But here an important question suggests itself. Did General Armstrong afterwards address himself on the same subject to M. Talleyrand? In all probability he did; for it was clearly his duty to do so. After such an intimation from Decres, he could not have justified to his own Government,

the omission of demanding the same explanations through the proper official channel.

If then he did apply to Talleyrand, what was that minister's reply? It has not been produced by the American Government; and we may therefore with certainty conclude, either that no explanations were obtained from the prince of Beneventum, or, that his official and authoritative exposition of the Berlin Decree was not of a kind to assist the president and his partisans in their apologies for France, and their complaints against Great Britain. Either the Government of America has suppressed the most material part of its ambassador's communications on this subject, or, it acquiesced in our enemy's aggressions, not only without obtaining a repeal of the Berlin Decree, but without even making any regular official application to the French Government on the subject. America, so jealous of her rights and of her dignity when she has to deal with Great Britain, does not even presume to demand explanations from the prime minister of Buonaparte; but humbly applies to an inferior department, where authoritative information is avowedly not to be had, and sits down with the mock explanations which M. Decres is pleased to afford, lest she should give offence by going to his superiors.

Here, Sir, on the case brought forward by America, at least, her resistance to the Berlin Decree, if such it must be called, totally ceased. No further attempts appear to have been made to obtain assurances from the French Government favourable to the rights of neutrality; much less to procure the repeal or express modification of a Decree which subjected every American vessel trading with England, or calling at a British port, to confiscation.

The consequence was natural. As long as the enemy's position made it his interest to connive at evasions of his Decree, our commerce with neutrals was subjected by it only to the inconveniences and burthens incident to an illicit trade. But when his plans were ripe for giving full effect to his hostile

system over the whole Continent, the Decree was put in force rigorously, and at once, without any previous notice, as a long existing law. Neutral ships that had merely touched at an English port, were seized and sequestrated in every port under the enemy's control. His power at sea was small; but as far as it extended, neutral ships were also captured there, for breaking the blockade of England; and all this expressly under the authority of the Berlin Decree. The pretended explanations of the minister of marine were wholly disregarded. The tribunals of prize, under the direction of the Grand Judge, proceeded on the authority of that Decree in its obvious import alone.

Sir, it is a fact admitted by America herself, that in the case of the Horizon, at least, this course of proceeding was unequivocally adopted in France as early as September 1807; and I have shown that, to the extent of general seizures and sequestrations, if not immediate condemnations, the same violent proceedings were adopted generally in the ports of the Continent a month earlier. The American Ambassador at Paris feebly remonstrated; but his remonstrances were wholly disregarded. America had notice of these proceedings long before she heard of our Orders in Council of the November following. Yet what was then her resistance to, or her disposition to resist, these new outrages of France? If the explanations of Decres were indeed given and received in the sense alleged by the American Government, the wrongs which it now had to resent, were of an aggravated nature indeed; for France, without previous notice, had seized the American ships and cargoes, not only contrary to the law of nations, but contrary also to her own declared interpretation of her own Decrees. The Government of the United States, however, still persisted in its former forbearance and complaisance towards that insolent power; and, unless the Embargo can be fairly called a measure of resistance to France, has not resisted to this moment.

Such, Sir, are the facts as to this question of acquiescence. Surely no man, who impartially regards them, can say that the complaints of America are in this respect well founded. If we were bound, which I must ever deny, to abstain from using our own means of self-defence in this war against our commerce till the United States could have time to interpose, that duty was amply performed on our part. Not so the duty of effectual interposition and resistance on theirs.

The honourable Gentleman asks, "What would you have had America to do? Could America force France to repeal her Decrees?" Perhaps not. But America could at least desist from trading with France, till those injurious Decrees were repealed. This was due to her own honour and dignity, as well as in justice to us. This was the best way to make France recede from her unjust system, by making her feel its ill effects, and also its inefficacy to the end proposed.

But America, though ready upon fancied wrongs to renounce her trade with England by prohibitory laws, was far from being disposed, even on such extreme provocation, to take the same course with France. When at last, in the month of December 1807, after full notice of the violent and insolent proceedings of Buonaparte, of his open disallowance of the supposed construction of his minister Decres, and his contemptuous rejection of General Armstrong's remonstrances, —when under these circumstances, I say, the American Government at last adopted an Embargo, was it as a measure of resistance against the aggressions of France, and of protection to the commerce of England, then sinking under the effects of those aggressions?

Though the avowed principle was to protect the ships and property of the United States from capture by the different belligerents of Europe, the Embargo, I admit, was really intended as a measure also of resistance and resentment. But against whom? Why, as much against this injured country, as against our enemies: It was in fact, in its ten-

dency and design, much more adverse to us than to them; but at least, has been as much directed against the injured belligerent, as him who was the author of the wrong. No secret was made by the American Government of its expectation, that the Embargo would stop our manufactories, give a severe shock to our commerce and revenue, ruin our planters, and starve our Colonial negroes.

This last humane intention, Sir, like the rest, has been happily frustrated. Our Colonial negroes have not been starved. But certainly, as most of our sugar islands depended wholly on provisions imported from America for the support of their slaves, the expectation was natural enough; and gentlemen on the other side of the House insisted upon it very feelingly and alarmingly in the last Session, as a consideration to which we were bound in humanity to give way. In this respect, the Embargo was likely to operate much more fatally on the English West India Islands than on those of our enemies, where, in general, the internal resources are far greater, and where the slaves had chiefly been fed by provisions raised in the country.

Sir, the injustice and partiality of this measure, when avowed at last to have been of a vindicatory nature, are so glaring, that it is not strange its authors should adopt an excuse which their partisans in this country devised for them. However contrary to truth, I am not surprised to find it pretended, that the Orders in Council produced the Embargo.

This pretence, which I must now proceed to refute, has changed its form. We are not now told, as formerly, that the Orders in Council had arrived, or were certainly known in America, before the Embargo was laid: but the assertion now is, that an expectation of some such measure as the Orders of November, grounded on some newspaper rumours, or private letters from England, prevailed in America; and that this expectation was one of the motives which gave rise to the Embargo.

I doubt not that English newspapers and letters carried such reports to America; for it was reasonably expected here, that Government would adopt some retaliatory measures for the protection of our commerce, long before those Orders appeared. The total interruption of our Europæan trade in August 1807, made such an expectation from that time more general; because it was become evident, from the alarming state to which our commerce was reduced, that some change of system had become indispensably necessary. This was a very bad reason, Sir, for any resentful measure on the part of the American Government; and, besides, it would have been a most extraordinary course of proceeding for any Government, to act upon mere rumours, and public expectation, in a case of that kind. It is still more strange to say that the United States, after acquiescing more than a year in the injurious Decrees of France without any practical opposition, were in such haste to resent the retaliatory Orders of England, as to take vindictive measures against us by anticipation.

It is admitted too, by those who set up this defence, that the expectations in question proved very erroneous: that the Orders in Council fell far short of the anticipated accounts of them sent to America, which represented the plan of our Government to be a total prohibition of the trade of neutrals with all the territories of our enemies.

But this defence, Sir, inadmissible and preposterous though it would be if true, fails totally in point of fact. It is demonstrable from the papers before you, that neither the Legislature, nor the Government of America, acted upon any such ground as the expectation of our Orders in Council of November, when the Embargo was voted.

I will not trouble you, Sir, with reading in proof of this fact the correspondence between Mr. Canning and Mr. Pinckney. I will only refer to it, as clearly showing at least that such was the fact in the contemplation of the American Minister.

But the late communications to Congress, as made public in America, have now been laid on your table; and it appears from them, upon still higher authority, that the pretence in question is utterly groundless.

In the dispatch of Mr. Madison, to Mr. Pinckney, communicating that important measure the Act of Embargo, with the Message to Congress which produced it*, he says, "The policy and the causes of the measure are explained in the Message itself." Now on a reference to that Message it will be found that it contains no mention whatever of the Orders in question, either as existing, or being expected. The President communicated at that time only certain letters of Messrs. Armstrong and Champagny, together with the British Proclamation recalling deserters from the navy; and it was on those documents alone that the Legislature was called upon to act, and the propriety of an Embargo was suggested†.

Sir, this letter of Mr. Madison was written the very day after the Embargo was passed into a law. There can be no doubt, therefore, of the accuracy of his official account of the reasons of that measure. It is true that the same Secretary, in a letter to Mr. Pinckney, of a much later date‡, written after our Orders in Council were known in America, attempts to avail himself of them; as enforcing or justifying, but not as having given birth to, the Embargo. His language is very observable: "My last inclosed a copy of the Embargo, and explained the policy of the measure§. Among the considerations which *enforced it*, was the probability of such Decrees as

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* Letter of December 23, 1807.

† Message of the President, December 18, 1807.

‡ Dispatch of February 19, 1808.

§ See the former extract, "The policy and the *causes* of the measure," Here he drops the word *causes*.

were issued by the British Government on the 16th of November; the language of the British Gazettes, with other indications, having left little doubt that such were meditated. The appearance of these Decrees, has had much effect in reconciling all descriptions among us to the Embargo, and in fixing the friends of the measure in their attachment to its provident guardianship of our maritime interests."

This passage alone, Sir, with all the address that is used in managing the terms of it, might fully serve to refute the pretence that our Orders were known by the American Government to be in existence when the Embargo was adopted. The *probability* of such Orders or Decrees being meditated by us, instead of any account, official or otherwise, of their having issued, is here vaguely suggested, not as a cause which produced the Embargo, but as one among the "considerations which enforced it;" a phrase evidently of studied ambiguity, and capable of being referred by the context to the subsequent effect on the minds of the American People. In any other acceptation, it is in direct opposition to the plain terms of the former letter, written at a time when there could be no reason for concealing the true motives of the measure, much less such a motive as is now pretended, in that official correspondence. It is but too plain then that the American Government has artfully laboured to avail itself of this new-found pretext, to justify a measure hostile in its intention towards Great Britain, under the consciousness that such a pretext was wanted to gloss over the partiality and injustice of its conduct.

Can it be credited for a moment, Sir, that if an urgent argument of this kind for passing the Embargo law had been conceived by the Government party, it would not have been communicated to the Legislature, or noticed in the debates that took place on that important occasion? Yet we have the very respectable and indisputable authority of Mr. Pickering, late Secretary of the United States, and a member of the

Senate, that it was not so communicated or noticed*. The eloquent Mr. Randolph too, as I understand, adverted to the same facts before the House of Representatives, where, as in the Senate, most of the auditors might have contradicted him on their own knowledge if he had assumed an untruth.

It is not less decisive, Sir, that in an Exposition of the reasons and objects of the Embargo, printed at Washington, in the Government newspaper, on the 25th of December 1807, as an accompaniment to the first public annunciation of the Act, no notice whatever was taken of our Orders in Council, or any allusion whatever made to them as a subject of expectation. I have here a newspaper containing that article, which was evidently drawn up with great care, in order to reconcile the American People to the new and severe restriction on their trade; and which was understood to proceed from the Government, though not in an official form.

I am aware, Sir, that the committee of the American legislature in its late Report, printed in the papers before you, has lent its countenance to the pretext which I am combating. Indeed the Report goes still further than Mr. Madison in his last official letter; for the words are, that when the Embargo was laid, "it was well understood in this country, that the British Orders of Council of November preceding had issued, although they were not officially communicated to our Government," as if some unofficial notification of those Orders, founded on their actual publication in this country, had been received. But to this representation of the committee

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* Speech of Mr. Pickering in the Senate of the United States, on Mr. Hillhouse's Motion to repeal the Embargo, November 30, 1808. Appendix to No. 31 of the Antijacobin Review. "What!" exclaims Mr. P. "the great, the operative cause of the Embargo, before which all other motives sunk into insignificance, not *seen*, not *known*, to the Senate!! not *glanced at* by the President in his message, not *intimated* to any of the Members who were honoured with his confidence, and by them to the Senate!!"

we may oppose, in addition to all the other arguments to which I have adverted, the authority of the committee itself; and in the very same report. In a former part of that document, (page 36 of the printed papers,) you will find this passage: "The Milan Decree of 1807, can still less rest for its defence on the supposed acquiescence of the United States in the British Orders of the preceding month; since those Orders, which have not certainly been acquiesced in, were not even known in America at the date of the Decree." Now, Sir, the Milan Decree bears date the 17th of December; and the president's message recommending the Embargo was communicated to the Legislature at Washington on the 18th. Unless therefore a single day was sufficient for the transmission of the alleged non-official notification of our Orders from the sea-coast to Washington, for the consequent deliberations of the American Cabinet upon them, the final adoption by the Government of so weighty and delicate a measure as the shutting up all the ports of the United States, and its recommendation in an official form to Congress, this proposition of the committee is totally inconsistent with the representation that the notice of our Orders was prior to, and contributed to produce, the Embargo *.

* This inconsistency had previously been pointed out by lord Bathurst, in his able argument on this subject in the House of Lords.

The opposition in the meaning of the committee, as well as in the sense of the terms used, is quite undeniable; for what is the argument of the report as against France? "We could not resist or resent the British Orders of November before we knew them; and they were unknown to us at the date of your Milan Decree." But if the Embargo had really been in any degree produced by those Orders, the argument alleges a falsehood, when truth would have furnished a much stronger defence. "We did resist, we did resent, the British Orders," it might have been said, "the moment we heard of them, at the expense of shutting up our ports. Those Orders, enforced by the naval power of Great Britain, made it impossible to trade with you; but you could not have prevented our trading with every part of the British dominions. The Embargo therefore was a voluntary renunciation of our commerce, chiefly or solely to the prejudice of that country, in resentment of her Orders in Council."

If we suppose the time of the passing the act to be the period intended in that representation, the contradiction would scarcely be less glaring, for it was passed into a law on the 22d. But, though the words of the report will bear this construction, the sense plainly excludes it; for the argument turns on the notion that our orders led to the Embargo, in the deliberations of Congress at least, if not also in the decision of the Government. The committee, however, rather insinuates, than ventures directly to assert, that the one measure had any share in producing the other. There is a most remarkable uniformity in the management of terms in this respect, not only in the report, but in all the American State papers in which the subject is noticed. Several of them convey the idea on a first perusal that the expectation of the Orders was the cause, or a concurrent cause, of the Embargo; and yet in none of them have their authors ventured to commit their credit by the averment of such a proposition. Mr. Pickering notices this singular feature in the controversy, as far as respects the style of the president: "Let all the documents laid on our table by the president be examined," he says, "and you will not find one in which he hazards the assertion that the British Orders of November 11, were known to him at the time he recommended the Embargo, or that an expectation of them determined his recommendation."

I have spent too much time, Sir, perhaps, in refuting a pretence, which after all, in my view of the main question, is no defence for America if true. The Orders in Council, being a just and necessary exercise of our belligerent rights, ought not, if known in that country, to have excited any resentment, or led to any adverse proceedings, except against the enemy, whose violence had driven us to that resort. But as much pains have been taken to deceive the people of both countries on this part of the case, it is right to rescue it from misrepresentation. That the hostile measure of the Embargo was taken while we were not even known to have retaliated

on the enemy beyond the Order of January, is a fact which, though not necessary to our defence, marks the partial and hostile spirit by which the American Government was actuated. A measure expected to distress this country was taken when France was known to have put her injurious system fully in force, and when England was not known to have departed from that extreme forbearance to which she had adhered too long. Such was the return for all our sacrifices to the amity of the United States. From tenderness to their commerce we had nearly incurred the total ruin of our own. Yet their Government did its worst to finish that ruin, before it knew even of the moderate and just measure of self-defence, into which we had at last been driven. It is also material, Sir, that the merchants and manufacturers of England should clearly know, that whatever inconveniences they may have sustained by the American Embargo, can in no degree be truly ascribed to the Orders of November. If those Orders had never issued, the conduct of the United States towards us would have been precisely the same; for all that they have done against us, and the worst they could do, was done before that pretended provocation was known.

I have now, Sir, generally considered the justice of our retaliatory system, as well as its policy. I have, I trust, though in a manner very inadequate to the strength of our case, justified the Orders of November; not only as expedient, and necessary for our own welfare and safety, but as consonant to clear and admitted principles of the laws of nations in regard to neutral powers. The general right of retaliation has hardly been disputed; and as to the objection grounded upon the alleged non-acquiescence of America in the enemy's Decree, it has been shown to fail both in principle and in fact. We did wait long and patiently, though not at all bound to wait, for the interposition of America; but the Government of that country did not resist the wrongful aggression of France,

and acquiesced in it, if the resting satisfied with vague, evasive and unauthorized explanations, leaving the insolent Decree in full force, and continuing nevertheless to trade with the offending country, amounts to acquiescence. The objection therefore is every way unfounded; and our right of retaliation, or more properly speaking of counteraction and self-defence, could not in November 1807 be with a colour of reason disputed, supposing it even not to have existed, as I maintain it clearly did, from the moment of the French aggression.

It remains only, Sir, that I should notice those new and important considerations, which arise from the late overture of the American Government.

The honourable Gentleman has stated that America "has proffered to us her cooperation in the contest in which we are engaged," on condition of our repealing our Orders in Council. That is clearly much more than she has offered; and more perhaps than even we need wish her to offer. But does she even propose to renounce effectually her trade with France, and the confederates of France, if, after our revocation of the Orders in Council, the Berlin Decree should be continued in force? Sir, I heartily wish that I could view the proposition in that light. The difference, here again, between the honourable Gentleman and me, is a difference in point of fact only; for supposing such to have been the fair effect of the offer, I agree with him that it ought to have been accepted.

An overture of that kind would, indeed, have amounted to a tacit admission that our Orders in Council were properly issued; and certainly, in that view, and upon the principle too on which the Orders were founded, the course proposed might have been reasonably objected to. France having been the aggressor, she should, in the first place, be called on to recede; and her refusal, without any pre-

vious revocation of our Orders in Council, ought to be regarded by America as a just cause of quarrel with that power. But the mere order of proceeding, supposing America really at last disposed to deal fairly and impartially between us and our enemies, would be matter rather of national pride and etiquette, than practical importance; and I repeat, Sir, that I would gladly sacrifice to conciliation with our American brethren, all punctilious considerations, and every thing that we can possibly sacrifice without dishonour or ruin. We are now in circumstances to make such concessions without incurring the suspicion of unworthy motives. I feel in that respect the force of a suggestion in the letter of the right honourable Secretary of State, which has been so much censured by the honourable Gentleman, that the experiment of the Embargo will tend to future harmony; "that we shall not now be supposed to court an intercourse with America as absolutely necessary to our own existence," and therefore shall have credit for worthier and more liberal motives, if we make such advances towards reconciliation as are not in justice due from us.

But, Sir, I lament to say that there appear to me very serious objections, and such as without ruin to our commercial and maritime interests we cannot waive, to the proposal made by Mr. Pinckney, as explained in the papers before us; and therefore I cannot concur in the censures that have been passed upon His Majesty's Government for not closing with that proposal, or admit the propriety of the proposed address to the Crown.

As to the form in which the overture was answered, with which the honourable Gentleman is so greatly dissatisfied, I see nothing in the terms of the right honourable Secretary's letter, calculated to give umbrage to the people of America. It is said to be in the same style which we are accustomed to hear from him in his eloquent speeches in this House; and if so, I must admit it is a style with which his opponents cannot be expected to be pleased: but as to the wit and sarcastic

point, which the honourable Gentleman finds in this letter, and which, if there, would certainly be much out of place, I am too dull to perceive them. To me it appears, that though our national rights are asserted with firmness, and our causes of complaint against the American Government noticed with dignity, the letter contains nothing disrespectful; and that its style is as conciliatory as was consistent with those temperate expostulations and remonstrances which the occasion required.

The honourable Gentleman, to be sure, in his views of the controversy, may naturally enough think otherwise. The passage respecting the coincidence of the American Embargo with the dangerous attack of the enemy on our European commerce, for instance, may probably appear to him, who sees nothing serious or injurious in the fact, to be a mere sarcastic pleasantry. But to the merchants of the country, and to those who have right conceptions of the state to which our commerce was reduced at that alarming crisis, I can assure him it is no matter of jest. Beyond doubt, the Embargo, however intended, was, in point of effect, a practical cooperation with France in a system framed for our destruction; and viewing it in that light, I cannot think the expostulation with the American Government could have been put in more moderate terms.

If the honourable Gentleman conceives that such topics might have been wholly avoided, let him recollect that there are different parties in the United States, as well as here, and one of them not inimical to England. In a State paper of this kind therefore, which was to come before the American public, it might have been bad policy to abstain from merited strictures and complaints, such as were in unison with the feelings of a party friendly to our rights, because they were not likely to be relished by a Government to whose unjust conduct they applied.

I am much inclined, Sir, to doubt the accuracy of the ho-

nourable Gentleman's information as to this letter having hurt our cause in America; for I have information of a directly opposite kind, and from respectable authority. (Here Mr. S. read an extract from an original letter from America, in which Mr. Canning's answer to Mr. Pinckney was mentioned in high terms of praise; and stated to have made an important change in the public mind, favourable to the cause of England.)

Besides, Sir, we have the evidence of the conduct of the American Government; which certainly was not indisposed to avail itself of any opportunity of exciting popular resentment against this country. The President did not, as the honourable Gentleman supposes, publish this letter, and thereby gain a great advantage in the elections; nor was the letter, as I understand, made public at all till after the elections were closed. On the contrary, care was taken only to state in general that an offer had been made to raise the Embargo as to us, if we would rescind our Orders in Council, and to continue the Embargo as to France, unless she revoked her Decrees; and that the offer had been rejected. This, which I shall show was a misrepresentation, was made public enough; and did, I believe, make a material change in the public mind to our disadvantage, and in favour of the French party; but the Government did not venture to publish the correspondence till the meeting of the Legislature, before which it was necessarily laid. Mr. Canning's letter, then, I believe, counteracted in a considerable degree those impressions which had been made by the abstract, and misrepresented fact of the overture and its rejection.—Thus at least the facts seem to have been, from such public and private accounts as have fallen within my notice. The style of the letter was certainly arraigned by at least one violent partisan of the Government in Congress; but I do not believe that by the American people in general it was regarded as at all disrespectful. I cannot answer, however, that when the honourable Gentleman's

speech finds its way across the Atlantic, the letter may continue to be viewed in the same inoffensive light. Men judge of wrongs for themselves, but of insults often from the feelings of others.—

The material question, however, Sir, is whether the offer of America was such as ought to have been accepted. To decide this, we must first determine what the offer really was.

Mr. Pinckney in his letter to the right honourable Secretary states his verbal intimation to have been, "that it was the intention of the President, in case Great Britain repealed her Orders as regarded the United States, to exercise the power vested in him by an Act of Congress, by suspending the Embargo law, and its supplements, as respected Great Britain." He adds, "I am authorized to give you this assurance in the most formal manner."

This, Sir, is the whole proposal.—What follows, in respect of that most important reciprocal consideration, the conduct to be observed by America towards France, is not even in the form of a proposal, or condition; but is a mere argument or suggestion, such as a third person, not at all empowered by America, might have offered without impropriety, as to the probable effects of the repeal of the Orders and Embargo. The terms are these: "If, as I propose, your Orders should be rescinded as to the United States, and our Embargo rescinded as to Great Britain, the effect of these concurrent acts will be, that the commercial intercourse of the two Countries will be immediately restored; while, if France should adhere to maxims and conduct derogatory to the neutral rights of the United States, the Embargo, continuing as to her, will take the place of your Orders, and lead, with an efficacy not merely equal to theirs, but probably much greater, to all the consequences that ought to result from them*."

* Letter from Mr. Pinckney to Mr. Canning, August 23, 1808.

It is truly astonishing, Sir, how any man who reads this passage can consider it as an offer to go to war with France, if she should refuse, after our compliance with the terms proposed, to repeal the Berlin Decree. That which the honourable Gentleman calls "a proffer of cooperation with us in the contest in which we are engaged," is plainly no proffer at all. It is a mere anticipation of certain effects from certain causes. Mr. Pinckney, instead of offering us an alliance, offers us an inference. Such language, from a party that has power to give, or to withhold, the benefit suggested, not only does not amount to engagement, but decisively shows that no engagement was designed: for who would think of merely inforcing argumentatively, as a probable consequence, something to be done by himself, and for which he meant to contract?

But supposing the passage to be intended as an engagement, or proposal, to what would it amount, Sir?—To an offer that America would, in the case supposed, vindicate her violated rights against France by war? So much the contrary, that the language clearly excludes all expectation of such conduct; *the Embargo continuing as to her, will take the place of your Orders*; America then meant merely that she would continue to prevent by an Embargo, her ships from sailing from her own ports to France; which is obviously inconsistent with the notion of her being at war with that power; for war implies a general interdiction of all commercial intercourse whatever, between the contending parties. The moment America drew the sword, there would have been an end of her embargo in respect of her enemy; it would have merged in the more comprehensive restrictions incident to war. The meaning of the overture, then, is the very reverse of that which the honourable Gentleman supposes. The language of Mr. Pinckney shows that America had no thoughts, even in the extreme case supposed by him, of going to war with France.

War, Sir, is a resort to which, in my judgement, it is

not necessary to urge America in the vindication of those rights, which are violated by France to our prejudice. It may in strictness be due to us, and to her own dignity; but I should be content to find her disposed even to an effectual renunciation of her trade with our enemies, till the repeal of the injurious Decrees. I should be satisfied with the overture of Mr. Pinckney, if it fairly implied an engagement to this moderate extent.—But the offer, so to call it, of continuing the Embargo as against France, when raised as against England, in consideration of the repeal of our Orders, is, I regret to say, very far from implying any such engagement. It is virtually a proposal that we shall give up real and effectual, and accept in their stead nominal and useless, restrictions on the commerce of France and her allies.

The American Government, in resorting to a general Embargo, took a measure which was certainly to a great degree efficient. It is executed in the ports of America, by the municipal authorities on shore. But when an Embargo as to France, or as to any particular country, is spoken of, it is evident that though the term is retained, the practical nature of the measure is entirely changed. It becomes a law, not against sailing from the ports of America, but against proceeding to certain parts of Europe. The violations of it are acts done not at home, but abroad: acts not passing under the eye of the American port officers, and not capable of being prevented by their authority, or by the aid of the civil magistrate. An Embargo simply locks the door of a port against the departure of vessels within it; but if they are suffered to sail, some other measure must be found to prevent an illegal voyage. If my neighbour's horses were used to trespass upon my inclosures, and, on my complaint, he should promise to keep them in future shut up in his stables, the expedient would be quite satisfactory; but if he should say to me, "They must be allowed to pass into my meadow; I will therefore lock my stable door as to your grounds, but leave it open as

to my own," it would be plain mockery and nonsense. Yet how would this differ from the offer, that an American Embargo shall be removed as to one part of Europe, and continued as to another?

I will, however, suppose the intention of the American Government to have been more reasonable than its language implies; and that it designed, on opening its ports, to pass a prohibitory law, guarded with the strongest sanctions that could be devised, to prevent the trading with France in American ships till Buonaparte should repeal his Decrees. Still what security should we have had that the prohibition would be effectual? We have not at this period to learn that, under cover of a clearance to England, or to any other country with which trade was permitted, the American merchants would send their ships securely to the ports of our enemies, and laugh at the impotent provisions of their own municipal laws!—How easy would it be to produce, on their return, false certificates of having landed their cargoes at the ports of ostensible destination outwards; or to touch at, and obtain real clearances from, some place with which they might lawfully trade, in an intermediate voyage! Even without supposing any connivance by the American custom-houses, such frauds, as we know from experience, might be practised with perfect safety.

Besides, Sir, it would not be necessary that their ships should return to their own country, after delivering their outward cargoes at a port in Europe. They might for years carry on the commerce of France with her allies, or even trade from one French port to another, without visiting any part of the United States: for let it be always remembered, that the condition, to be previously performed on our part in the proposed arrangement, is a repeal, not only of our Orders of November 1807, but that also of the January preceding; the Order which alone restrains neutral vessels from carrying on the coasting trade of our enemies, and their commercial intercourse

with each other, in every part of Europe. France, therefore, while continuing to trample on neutral rights, and to cut off our commerce with the Continent, by means of the Berlin Decree, would enjoy the full benefit of neutral navigation.

The honourable Gentleman plainly supposes in his argument, that such consequences as these might be prevented, notwithstanding the repeal of our Orders in Council, by means of our maritime power. But he is mistaken, and apparently is not apprised of a general rule of the law of nations, by which the case would be governed. Here, Sir, I have to regret again the disadvantage of which he complains, our being deprived of the assistance of the eminent civilian who used to sit on the same bench with the honourable gentleman; for my late learned friend would have told him that the British fleets or cruizers could not, in the case supposed, lawfully give any interruption to the contraband trade which might be carried on by Americans with France. He will not, however, I hope, distrust my word, when I assert that it is an established rule, and supported by repeated and uniform decisions of the Lords Commissioners of Appeals, both in the last and present war, that neutrals are not liable to be captured by British ships for trading with our enemies contrary to the municipal laws of the country to which they belong.—Even in cases so little deserving indulgence, as those of American slave traders, seized for carrying negroes from Africa for the supply of French and Spanish Colonies in the West Indies, contrary to an Act of the United States which prohibited that commerce, the captures of their vessels have been adjudged at the Cockpit to be illegal, and the property restored to the claimants, on the principle that courts of prize have no right to enforce the prohibitory laws of a foreign and neutral State.

The identical point now in question has often arisen upon captures of the late war.—America then, it will be recollected, upon extreme provocation from France, passed

prohibitory laws suspending her commercial intercourse with the territories of that power. Those laws, however, were openly violated, as they would be in the case now supposed. Ships were cleared out from the United States for English or neutral ports, and proceeded to ports belonging to France; especially in St. Domingo and other colonies, where the temptations to such frauds were the strongest. Many of them were, in consequence, seized by our men of war and privateers, and condemned in our Vice-admiralty Courts; but those condemnations, as far as they rested on the prohibited nature of the trade, were invariably reversed upon appeal.

When America then demands the revocation of our Orders in Council, she demands the repeal of the only authority, by which the execution of her own future prohibitory law could be aided by the naval force of Great Britain: and to what other means, Sir, could she possibly look for the suppression of a trade under her flag, between the ports of our enemies in Europe? Will she fit out a naval force, adequate to the task of watching all the hostile coasts of the Continent, and intercepting her own contraband traders? Or will a sense of loyalty, or any terrors she can hold out, deter them from prosecuting so lucrative a commerce? The papers before you might alone suffice to cut off any such hope.—You will find from them, that American vessels are not only eluding the Embargo, in spite of all the efforts of their Government to stop what are called "the *leaks*" in it*, but carrying on extensively in the seas of Europe a trade, at which their Government is highly indignant, and from which it vainly endeavours to recall them†.

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* "No pains have been spared to stop every leak, by which the effect of the Embargo laws might be diminished."—Letter from the American Secretary to Mr. Pinckney, April 30, 1808.

† "It is much to be regretted that any of our vessels, by neglecting to return home, and conforming to the arbitrary regulations of

The overture of Mr. Pinckney then, Sir, were there no other objection to it, would, on this ground alone, be such as we could not safely accept. It holds out to us no substitute for our Orders in Council, but one that would be quite ineffectual to the end proposed, and would leave the enemy in possession of that neutral commerce, which he insolently denies to Great Britain. Mr. Pinckney indeed says that "the proposed arrangement would lead to all the consequences that ought to result from our Orders, with an efficacy equal to theirs, and probably much greater." But that proposition is not supported by any reasoning, or explanation; and I am at a loss to conceive upon what views it can rest. The efficacy of our Orders is assured by the maritime arm of Great Britain; but an American prohibitory law, if not executed by the same powerful instrument, would have scarcely any efficacy at all.

If there could have been any doubt, Sir, that the proposal of that respectable minister, however objectionable, was as favourable as his instructions warranted, the doubt would be now removed. The instructions under which he acted are before you; and I am sorry to add, they do not give a more satisfactory view of the intentions of the American Government, than the language of the proposal itself. On the contrary, they suggest still further and very serious objections.

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one belligerent, should expose themselves to the arbitrary proceedings of the other." "So strong and general an indignation seems particularly to prevail here against the Americans in Europe, who are trading under British licences, and thereby sacrificing, as far as they can, the independence of their country, as well as frustrating the laws which were intended to guard American vessels and mariners from the dangers incident to foreign commerce; that their continuance in that career ought to be frowned upon, and their return home promoted in every proper manner." "It appears by information from our Consul at Tangier, that great numbers of our vessels are engaged in a trade between Great Britain and Spanish ports, under licences from the former," &c.—Letter from the same to the same, July 18, 1808.

It did not distinctly appear from Mr. Pinckney's overture, which of the two measures, the repeal of our Orders, or the raising the Embargo, was to precede the other: or whether they were to be cotemporaneous. But from the instructions of his Government, it is plain that the concession demanded from us, was meant to be immediate and absolute; while the reciprocal act on the part of America was to be future, not fixed in point of time, and even, if the terms are taken in their strict import, not to be positively promised, but left at the discretion of the President.

The words are, "In order to entitle the British Government to a discontinuance of the Embargo, as it applies to Great Britain, it is evident that all its Decrees, as well those of January 1807 as of November 1807, ought to be rescinded, as they apply to the United States," "Should the British Government (it is added) take this course, you may authorize an expectation that the President will, within a reasonable time, give effect to the authority vested in him on the subject of the Embargo Laws*." If this is to be construed as empowering Mr. Pinckney to enter into a positive engagement that the Embargo shall be raised, at least the time was to be indefinite; and the meaning clearly is, that we must rescind all our Orders of Council in the first place, and wait till the performance of that condition can be known and acted upon in America, for the reciproeal change of system on her part.

What, Sir, would be the practical effects of such an arrangement? France, though not disposed to recede at all from her Decrees, would, during some months at least, be relieved from the pressure of our retaliation; and enabled by means of neutral flags to carry on her commerce, and supply herself amply with all those necessary imports by the want of

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* Letter from Mr. Madison, the American Secretary of State, to Mr. Pinckney, April 30, 1808.

which she is now distressed; while the trade of this country (our present precarious intercourse with Spain and Portugal excepted) would be reduced to the same prostrate condition in which it stood in the autumn of 1807. We should indeed be placed in a worse situation, and France in a better, than at that alarming period: for our intercourse with America was then partially open, and France was then, by our Order of January, cut off from the means of maritime communication with her allies, and between the ports of her own widely extended territories in Europe*.

Why we should be called upon, Sir, to repeal the Order of January, as well as those of November, in consideration of a removal of the American Embargo alone, I am not able to discover. The Order of January 1807, is not alleged by America to have produced the Embargo; which in fact was not proposed to Congress till near the end of that year, and we were surely sufficiently punished for that first and abstemious measure of retaliation, supposing it unjust, by the order for putting in force the Non-importation Act. It was vengeance enough for our interrupting the coasting trade of our enemies, to deprive us of the chief part of our export trade to the United States. Besides, since it is now pretended by the American Government that a foresight of the Orders of November occasioned the Embargo, the removal of that offence should entitle us to a cessation of the punishment†.

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* The critical state of the war in August last, would have made the relieving the enemy from the restrictions of our Order of January peculiarly advantageous to him, and injurious to ourselves and our allies. Neutral ships would have been employed, directly or circuitously, in the collecting provisions and other necessaries for the use of the French armies destined to act against Spain and Portugal. It would not be just indeed to regard this consideration as at all impeaching the conduct of the American Government, in framing the offer, because the instructions are dated in April: but it nevertheless furnished an additional reason against such an offer being accepted.

† The American Government seems to have perceived that it could not consistently demand a repeal of the Orders of January, without

After all, Sir, what important fruits should we have reaped from the removal of the Embargo, if the Non-importation Act was to remain in force? And how could the continuance of that most unfriendly law, be made to consist with amity between the two countries? We might have regained our imports from the United States, which the American people are distressed by withholding, and the want of which is now ascertained to be harmless to us and our colonies; but the greater part of our export trade to America would still have remained prohibited. This was too plainly Mr. Jefferson's design; for no offer is made to repeal the Non-importation Act, nor is any power to remove that offensive obstacle to harmony between the two countries, to be found in Mr. Pinckney's instructions.

I wish, Sir, that the objections which I have already mentioned, serious though they are, were the only bars to our acceptance of the American overture. There is another, of still greater importance, and which presents, I fear, a much more decisive proof than all the rest, of the hostile disposition of Mr. Jefferson's Government towards this country, and its unjust partiality to our Enemy. To this, I must now beg your particular attention.

The honourable Gentleman has assumed throughout his argument, that the concession required by America from the French

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offering a more complete recession from its vindictive measures than it was willing to make, and therefore ingeniously to have thrown in the following argument. "This is the rather to be looked for, from the present Administration, as it has so strenuously contended, that the Decrees of both dates were founded on the same principles, and directed to the same object." (Same letter to Mr. Pinckney of April 30, 1808.) Our disinterested love of consistency alone then is to save America the expense of giving us any compensation for this part of our very costly concessions!

This argument might be a very pretty party sarcasm in Parliamentary Debate, but seems rather unfit for a conciliatory diplomatic negotiation.

Government, was a repeal of the Berlin Decree; and that a refusal to repeal it, was the case in which her resistance to French aggression was promised. It is the Berlin Decree, in which, he says, the Government of the United States now at least is disposed not to acquiesce. It is in the same view that he holds her conduct towards the opposite belligerents to be equal and impartial. She requires from us, it is said, the repeal of our Orders in Council, and from France the repeal of the Berlin Decree. Most heartily, Sir, should I rejoice to find that such is the true meaning of the American Government: but certainly such is not its language; and I fear the papers before you will be found to prove too clearly that no such equal conduct was in truth designed.

In the first place, what are in this respect the terms of the proposal as made by Mr. Pinckney? He does not, as I before observed, expressly engage for any line of conduct whatever to be held towards France: but how does he define the case in which the Embargo will continue against that country, while rescinded as against Great Britain? Is it the refusal to repeal the Berlin Decree? No; the terms are, "if France should adhere to maxims and conduct derogatory to the neutral rights of the United States."

The honourable Gentleman, perhaps, will be ready to say that this is the same thing, though in different words: and certainly, in a just view of the subject, so it is; for the Berlin Decree, in all its parts, is derogatory to the rights of America, and every other neutral country. But if he will examine the language of the American Government on the subject, in the other papers before you, he will find reason to believe with me that the Berlin Decree is regarded by that Government in a very different light; and that Mr. Pinckney's expressions were purposely chosen to avoid the distinct avowal of principles which he was aware would not be admitted.

The instructions on this point contained in the letter of

Mr. Madison to which I before referred*, are conveyed in very remarkable terms, and such as well deserve the serious attention of the House. "Should the French Government revoke *so much of its Decrees as violated our neutral rights, or give explanations, or assurances having the like effect, and entitling it therefore to a removal of the Embargo as it applies to France*, it will be impossible to view a perseverance of Great Britain in her retaliating Orders, in any other light than that of *war*, without even the pretext now assumed by her."

Here, Sir, it is clearly intimated, that the redress demanded from France by the American Government, was not a repeal of the Berlin Decree, and the Milan and other Decrees which were founded upon, and subsidiary to that audacious measure, but only of *some part of them*; a part which alone that neutral Government thought proper to regard, as violating its rights. Nay, even this partial repeal or revocation seems not have been insisted on, but only some "*explanations or assurances*," with which Mr. Jefferson was humbly disposed to be content. Though the former explanations, or the language which he accepted as such, proved no security whatever, but rather a snare, to American commerce; though the letter of Decres, which is still asserted against us to have been satisfactory, was openly disregarded and despised by the French tribunals, and with the express sanction of their Government; yet the President is willing to accept again from France the same species of satisfaction; and if England presumes to deem it insufficient, war is expressly denounced against us. From *us*, nothing short of an express repeal of all our Orders in Council will satisfy this indignant Government: But *France* may maintain in force Decrees, which in part at least,

* Letter to Mr. Pinckney, of April 30, 1808.

are admitted by the President himself to be violations of the neutral rights of America, if Buonaparte will condescendingly permit one of his Ministers again to write some mock explanations. Though he has seized and confiscated the ships of the United States under the Berlin Decree while they relied upon the former letter, they now humbly beg for another such unmeaning commentary, rather than presume to shock his pride by demanding a repeal of the text. Such, Sir, is the impartiality, such the consistent dignity, of this neutral Government, in its treatment of Great Britain and France.

The most material question however is, what are those parts of the French Decrees which the President regards as consistent with neutral rights?—How much of the hostile system was our commerce to be left still to conflict with, if we had accepted Mr. Pinckney's offer?

To this question, Sir, I lament to say, the correspondence between America and France, contained in the printed papers on your table, furnishes too clear an answer. General Armstrong, in that important letter to M. de Champagny, to which I before referred, plainly declares how far France may carry on her war against our commerce, with the full consent of the United States. "That His Majesty has a right to make such municipal regulations as he may deem proper with respect to foreign commerce, neither is, nor has been denied. For example, he may forbid the entry into the ports of France of American ships which have touched in England, or been destined to England; and he may either sequester or confiscate such vessels of the United States, as shall infract these laws after due promulgation or notice thereof." "M. de Champagny," he adds, "will not fail to seize the distinction which these remarks present, between the authority of municipal regulations, and public law." He then proceeds to argue, that this distinction offers a ground on which "the good understanding, so long maintained between France and

the United States, may be preserved with advantage to both*".

It is upon this basis, Sir, that the American Minister proposed an accommodation with France in respect of the Berlin Decree; and it is in case of our opposition to an arrangement to be framed upon such principles as these, that "the United States," as the same letter declares, "could no longer hesitate about becoming a party to the war against England."

We have here then a clear development of the maxims of law and policy, applied by the American Government to the Berlin Decree: for I am sorry to add there is no room to hope that Mr. Jefferson in this respect differs from his Ambassador: several passages in the state papers before you too plainly prove the reverse. There is, in particular, a passage in one of the letters of Mr. Madison to Mr. Erskine, which speaks a language on this subject so intelligible, that I shall rely on it without any other citations. "The French Decree," observes the Secretary of the United States, "has two distinct aspects; one clearly importing an intended operation within the territorial limits, as a local law: the other apparently importing an intended operation on the high seas. Under the first aspect, the Decree, however otherwise objectionable, cannot be said to have violated the neutrality of the United States. If the governing powers on the Continent of Europe choose to exclude from their ports British property or British productions, or neutral vessels proceeding from British Ports; it is an act of sovereignty which the United States have no right to controvert. The same sovereignty is exercised by Great Britain at all times, in peace as well as in war; towards her friends as well as her enemies.—Her Statute-book presents a thousand illustrations. It is only, therefore, under the other aspect of the Decree, that it can

* Letter from General Armstrong to M. de Champagny, August 6, 1808.

have violated neutral rights; and this would have resulted from its execution on the high seas; whether on the pretext of a nominal blockade, or with the view to enforce a domestic regulation against foreign vessels, not within the domestic precincts, but under the authority and protection of the law of nations—Had then the French Decrees been executed on the high seas, against the commerce of the United States with Great Britain?" &c.

Let us examine for a moment, Sir, these alarming doctrines, as applied to the present system of France.

That the legislature of any country has a right to determine what articles of merchandize shall, or shall not, be imported into its dominions, is unquestionably true; nor is it to be disputed, that the same authority may declare from what places of shipment such imports shall be brought. But that the exclusion of ships, whose admission would otherwise be lawful, merely because they are "proceeding from" the ports of a particular nation, or, to use the words of General Armstrong, for their having "touched in" such ports; that an exclusion for this cause, I say, is a measure within the true principles or practice of municipal legislation, is a proposition which I utterly deny. It is not true that such authority has been exercised by Great Britain. Of the "thousand illustrations in our Statute-book," asserted by Mr. Madison, I defy any man to show me one. Our navigation laws respect, indeed, for many purposes the place of shipment, prohibiting the importation of commodities when laden in one part of the world which may be lawfully brought from another. Thus, a general rule is, that goods must be brought from the country of their growth or production, either in ships of that country, or of our own. But there is no British statute that confiscates, or excludes a ship in any case, merely

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* Letter of Mr. Madison to Mr. Erskine, March 25, 1808.

because, having taken on board a lawful cargo at a lawful port of shipment, she has touched at another country in the course of her voyage, and is proceeding from that country to England.

I except, of course, the laws which subject to quarantine, vessels coming from places infected with the plague; and admit, that if the plague reigned in England, this part of the restraint to which the American Government is ready to submit, might be within the fair scope of French municipal legislation. But there is no other case, Sir, in which nations at peace, or even nations at war, till now, have ever adopted such invidious restrictions.

The proposal of General Armstrong, however, to the French Government goes still further. According to his exposition of the municipal rights of our Enemy, neutral vessels which have not even touched at, but have only "been destined to" England, may for that cause alone be lawfully seized and confiscated in the ports of France. An unexecuted, and even an abandoned intention, of proceeding to one friendly country, may justifiably subject a neutral vessel to confiscation, in the port of another. To such treatment America by her Ambassador offers to submit from France; while she demands from England a right to carry on even the coasting trade of our Enemies! Mr. Madison has not condescended to explain upon what principle or precedent of municipal legislation this further prescription of our commerce is to be founded; but it is one of the "rights of his Imperial Majesty," which General Armstrong says, "neither is, nor has been denied!"

How long the vessels of America are to be contaminated, Sir, by having touched at, or been destined to, this infected country, the Ambassador does not declare: but by the plain import of his terms, they may possibly be liable to seizure and confiscation for it, as long as they navigate the seas, if ever after found in a French port. I see nothing, in

point of principle, that can at all limit this liability, after the concessions which General Armstrong has made; for the having been destined to a British port, or having merely touched at one, seems just as material to the domestic œconomy of France, whether it happened recently, or at a long distant period. If Buonaparte may subject neutral vessels entering French ports to confiscation, on account of a preceding act, perfectly innocent in itself, merely because the entering French ports is a proceeding which he has power to regulate by municipal law, it obviously rests with him alone to determine to what extent such restraints of neutral commerce shall be carried. Whether designed or not, it is a plain consequence of the Ambassador's concessions, that American ships having any intercourse with us whatever, may at the will of France, be deprived of neutral character, or, as the Decrees call it, *denationalized*, so as to be liable ever after to be treated as enemies; only France must take care to seize them where she can, in the ports of the Continent; and not where she cannot, on the high seas.

If this just consequence, however, of General Armstrong's doctrine be thought to exceed his practical views, at least he could intend nothing less than this, That a British destination, or any contact whatever with this country, might justly subject an American ship to forfeiture in case of her entering a French port during the same voyage; a concession sufficiently degrading to the American flag, and inconsistent with the law and usage of nations.

It may, perhaps, be said, Sir, that if the enemy is admitted to have a right to prevent neutral ships from importing our merchandize into France, it is not very material to us whether he may go so much further as to seize them for having merely touched at our ports. But Buonaparte is of a very different opinion. He finds that in order to enforce a system, so unnatural and monstrous as that by which he attempts to deprive of all her foreign trade a Power that is the unresisted

mistress of the seas, it is necessary to deter neutral vessels from even calling at our ports. He has learned by experience that all more legitimate expedients are ineffectual, when opposed to the pervading energies of our commerce, and to the urgent wants of the Continent. While neutral vessels are allowed to touch here, he knows that means will be found, in spite of municipal regulations, to introduce our merchandize into his ports and those of his allies. If then the neutral rights of America are invaded, as, with all due deference for General Armstrong's authority, I maintain they clearly are, by the seizure of her ships in the ports of France, for having merely called at, or being destined to, a port in the British dominions, the effects of the wrong, and of the submission to it by the American Government, are, to us at least, of no trivial kind. They give effect to a plan concerted for our destruction, and which otherwise could not possibly succeed*.

If, Sir, we apply these remarks to the case of France

* The disadvantages of these restrictions, even to America herself, would be deemed injurious and intolerable if Great Britain, not France, were the author of them. Witness the remonstrances of the President against our Order of January 1807. It was alleged by him that it is the ordinary course of American commerce, for ships to proceed from one European country to another in the course of the same voyage, prior to their return to the ports of the United States. To abridge this commercial range, therefore, by forbidding them to carry on the enemy's coasting trade, or to carry from one hostile port to another in Europe, was deemed by him a grievous hardship, even when we were driven by self-defence to oppose it. "The character and course of nearly the whole of the American commerce with the ports of Europe, other than of Great Britain, will fall under the destructive operation of the Order: It is well known that the cargoes exported from the United States frequently require, that they may be disposed of partly at one market and partly at another. The return cargoes are still more frequently collected at different ports, and not unfrequently at ports different from those receiving the outward cargoes. In this circuitous voyage, generally consisting of several links, the interest of the undertakers materially requires also, either a trade or a freightage between the ports visited in the circuit. To restrain the vessels of the United States, therefore, from this legitimate and customary mode of trading with the continent of Europe, as is contemplated by the Order, and to compel them on one hand, to dispose

alone, where it may be admitted that Buonaparte has the immediate right, as well as the power of municipal Government; even there they sufficiently show the unfairness of those distinctions upon the Berlin Decree, to which the President means to resort.

It is enough indeed to say, that municipal regulation was not the true, nor even the pretended object, of the ruler of France, in framing these Decrees. The principle on which they stand is not at all disguised. It is his avowed purpose to ruin the commerce of Great Britain, as the only means of subverting our naval power. The Berlin Decree, in short, is, and professes to be, a measure of belligerent, not of domestic policy. The American Government would disingenuously persuade the enemy to give it another character, and to "seize the distinction," as General Armstrong expresses it, between municipal regulations and public law, in order to furnish her with a pretence for acquiescence. But the insidious counsel has not hitherto been embraced. Though the Ambassador truly suggests that the distinction, if admitted by us, with the aid of that further restriction on American trade, which is kindly recommended by him*, would ruin the commerce of England, Buonaparte is not wise enough, or is too haughty, to follow his advice, and refuses to accommodate America with the pretext for which she condescends to beg.

But, Sir, it is not to this pretended municipal legislation

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of the whole of their cargoes at a port which may want but a part; and on the other hand, to seek the whole of their returns at the same port, which may furnish but a part, or perhaps no part of the articles wanted, would be a proceeding as ruinous to our commerce, as contrary to our essential rights". (Letter of Mr. Madison to Mr. Erskine, of 29th of March, 1807.) Is Great Britain then become so insignificant among the commercial countries in Europe, that from her ports alone these American voyagers, trading in the European Seas, may be without inconvenience excluded?

* See supra, p. 38, &c.

in France alone, that the Government of the United States resorts to excuse its submitting to the hostile Decrees, and contributing thereby its necessary aid to our destruction. In Holland, in Italy, in Germany, and in every other part of the Continent under the power or influence of France, the same system of war against British commerce is adopted; and every where we are required by America to submit to this system, as a rightful exercise of the power of municipal legislation. "If the governing powers on the continent of Europe choose thus to exclude neutral vessels having touched at, or destined to, our ports, it is an Act of Sovereignty (we are told) which the United States have no right to controvert." The blockade of the British Islands, a measure in which France compels other nations to co-operate, as a duty imposed upon them by the common belligerent league against us, is by the American Government resolved into their separate regulations of domestic policy*!

* The inconsistency of the American Government in this respect, is well worthy of remark. It commonly argues these questions with us, as if France were the only power whose aggressions the United States were bound to resist. Much undue advantage has been taken by this partial view of the case; and the President would be dislodged from almost all the ground he has occupied, weak though it is, if he were called on to show his resistance to Spain, Holland, and the other countries which adopted the Berlin Decrees, as well as to France. Spain, for instance, gave no explanations real or pretended: and her Decree of blockade is admitted to have been executed, and to be incapable of any construction, at all compatible with neutral rights.—America could only defend herself for having omitted to expostulate with, and resent the conduct of, these powers, by alleging that they were violating her rights unwillingly, under the imperious mandate of Buonaparte; and that it would have been idle to apply for redress to their feeble and dependent Governments; an excuse which in point of fact is not to be wholly disputed.—But how does this consist with regarding the submission by these powers to the French Decrees, as an exercise of their own independent rights of municipal legislation, with which foreign states cannot warrantably interfere? The King of

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Even this, however, Sir, is not the whole, not the worst part of this most extraordinary pretext. Nations yet independent and neutral when the Berlin Decree issued, were commanded by France to adopt it. Some of them reluctantly obeyed; others were compelled by actual violence to do so. French armies occupied Hamburgh, and other neutral ports in the North, for the avowed purpose of expelling from them the trade of England. The ships of America, and of other neutral countries, were seized in those ports by command of the French generals, because they had been engaged in violating the blockade of the British Islands. Such is the municipal legislation which America, a neutral power, disclaims the right to controvert*. In Portugal, at Naples, and in the

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Holland has not scrupled in the preambles to his prohibitory edicts to avow that they were dictated by France.

In the Non-importation Bill which has been proposed to the legislature of the United States, as a substitute for the Embargo, this partiality of opposition, or resistance to the injurious system, appears in a most offensive form, though unnoticed perhaps by the friends of impartiality and peace. The description of the places with which trade is proposed to be prohibited is, on the one hand, "any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain;" a description comprising fully all the present possessions of the British crown; but on the other hand the terms are, "any port or place situated in France, or in any of her colonies or dependencies;" to which is added, "any port or place in the actual possession of either Great Britain or France." Does this latter description comprise the allies of France, or the countries which at her instigation have adopted her wrongful system of war against our commerce? If not, the Bill is flagrantly partial, even on the principles asserted by the American Government itself; and if passed into a law, must unavoidably lead to further quarrels, if not to actual war.

* Mr. Jefferson, it would seem, with all his tenderness for French enormities, was a little diffident of his healing distinction, when applied to the seizures at Hamburgh, Bremen, &c. and therefore refers the public law of those puzzling cases to the superior judgment of General Armstrong. "I find by accounts from Hamburgh, Bremen, Holland, and Leghorn, that the trade and property of our citizens have been much vexed, (What gentle terms for military seizures and confiscations of neutral ships and cargoes in a neutral country!) by

papal territories, the command to renounce their neutrality was not immediately obeyed, or not to the full extent of the injustice and perfidy which Buonaparte thought fit to prescribe;—and what was the consequence? Their sovereigns were dethroned, and their territories taken possession of by French armies.

Are we then bound, Sir, to respect powers of municipal legislation acquired by atrocities like these? When friendly monarchs have lost their thrones, and been driven into exile, as victims to their respect for the duties of neutrality, are we to be told that the Usurper of their dominions has acquired a right to introduce those very Decrees which the lawful Sovereigns resisted! He indeed may tell us so, consistently enough; but that a Government calling itself neutral, should hold such language, is extraordinary indeed, and not a little trying to our patience.—America would derive her title to trade with Portugal under the restrictions of the Berlin Decree, from one of the grossest outrages upon the law of nations that ever was perpetrated, and which every nation claiming neutral character was bound to discountenance at least, to the utmost of its power, if not resolutely to assist in avenging.

It will hardly be denied, Sir, I suppose, that the court of Brazil, at the time to which these arguments refer, had a right, and if unfortunately the French armies should again occupy Portugal will still have a right, to deny this legislative authority of Buonaparte; and to treat his possesion as an act of mere military violence and wrong. The Prince Regent, I presume, will

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regulations subaltern to those of the original Decree, of 21st of November, 1806. How far the complaints are founded on proceedings violating our public rights, or on such as are unfriendly and inequitable towards our citizens, who have placed their property within those jurisdictions, you will be able to decide better than we can do at this distance," &c. Letter from Mr. Madison to General Armstrong, of 2d of May, 1808.

not be thought to be bound to respect French Decrees in that country, or be at all restrained by them in his conduct of the war.—But if not, neither is Great Britain so restrained; for the belligerent rights of our ally and confederate, are our own. America can no more maintain this pretension against us in respect of Portugal, Naples, or Hanover, than she could in respect of Ireland, should the French Armies invade, and obtain possession of, that part of His Majesty's dominions. The same principle would equally justify in that case the trading freely with our enemy in the ports of Ireland, and abstaining at the same time, in obedience to his mandate, from all intercourse with Great Britain. We might be told then, as reasonably as now, "This is the lawful regulation of the Government of the country: it is municipal law; an act of sovereignty, which the United States have no right to controvert; it will be an infraction of our neutral rights, therefore, and an offence which we will regard as war, if you prevent our vessels from going freely to Cork; though they would be liable to seizure and confiscation there if destined to London."

This doctrine, Sir, when considered in its general application, is so extravagant, and gives such a shock to common sense, and to the common feelings of mankind, that it may have seemed a waste of time to refute it. Yet from a consideration of the American State Papers before us, I am convinced that the late President seriously meant to assert it against us to its full extent. Indeed nothing less than its application to every part of the Continent would adapt it to the end in view, that of reconciling the rights of America with the system of Buonaparte. If our produce and manufactures can find their way into any of the Continental ports, there is an end of his hope to ruin our European commerce. America therefore cannot expect that he will "seize the distinction" suggested by General Armstrong, and maintain his war against our trade on the new principle of municipal legislation, unless she will ascribe to him the same legislative rights, and give him the benefit of

the same happy distinction, in every country usurped by him, or occupied by his armies.

What then, Sir, on the whole is the change of system that America proposed to demand from France, in return for that complete submission on our part, the repeal of all our Orders in Council?—Positively nothing but this; an abstinence from seizing American vessels at sea. Buonaparte was to be left at liberty to maintain in full force his Decrees, declaring all His Majesty's dominions in a state of blockade, and to enforce them by the seizure and confiscation of every American vessel violating that pretended blockade, when afterwards brought within his grasp, by arriving at any port of the Continent. All that was desired of him was not to do, what would very rarely indeed be in his power, not to seize on the ocean, and carry into port, such vessels as, having no continental destination, could only be intercepted on the coasts of England, or on the Atlantic.

This, Sir, is not only a plain deduction from the doctrines of the American Government, but the express import of its language. "It is only under the other aspect of the Decree, (observes Mr. Madison,) that it can have violated neutral rights; and this would have resulted from its execution on the high seas; whether on the pretext of a nominal blockade, or with a view to enforce a domestic regulation, against foreign vessels, not within the domestic precincts, but under the authority and protection of the law of nations*."

The controversy between us and the United States is expressly resolved into the same local distinction, as to the place of seizure. "Had then the French Decree been executed on the high seas, (it is asked), against the commerce of the United States with Great Britain†?" This, the American

* Letter of Mr. Madison to Mr. Erskine, 25th of March, 1808.

† It is a plain corollary from this doctrine, that a Sovereign who

Secretary regards as the simple and sure criterion of illegality. The principles of an edict, and the rules of judgment which it declares, are immaterial; the place of its execution alone determines whether it is just or unjust, consistent or inconsistent, with the rights of neutral countries.

In a word, Sir, the public law maintained by the President of America is this: The sea is the only place of possible offence to neutral powers, because the sea is governed by England; on the Continent every thing is lawful, because the Continent is in the hands of Buonaparte.

The honourable Gentleman has talked of the impartiality of the American Government; but surely it is impossible for any man who considers the nature and tendency of these doctrines, not to see the gross partiality of the views by which they are suggested. Indeed the strong predilection of that Government for France, has long been too clearly demonstrable; and there is a new proof of it in the papers lately laid on your table, which I cannot forbear to notice.

No clearer evidence of partiality in a neutral Government can be given, than when in its own measures, as they affect the different contending parties, it adopts principles diametrically opposite to each other; and when such inconsistency redounds uniformly to the benefit of the same favoured Belligerent. Now there is one important maxim which America has always strongly asserted in her controversies with England, yet has in her late measures completely abandoned, and even adopted its very reverse, avowedly in favour of

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has no maritime arms, cannot possibly offend against the law of nations. He may invade every neutral right however sacred, and by all means however flagitious, and yet other States will have no right to controvert such acts, or be at all bound to interrupt their commercial and amicable relations with him; for all is done on shore; and wherever he has power to oppress by his arms, there he is rightful lawgiver, and the wrong of course becomes municipal legislation.

France. I mean the maxim that neutral rights and duties are in no degree affected by the superiority, however great, of one belligerent over the other, in point of maritime force.

I need hardly remind the House, how loudly this rule has been maintained against us in the long controversy respecting the colonial trade of our enemies. Not that our naval superiority was ever considered, on our part, as giving a right to restrain any branch of trade that would otherwise have been lawful to neutrals; but our decisive and unresisted ascendancy on the ocean was truly alleged to have disabled the enemy from carrying on trade with his own colonies, or supplying their wants, and to have therefore been the cause of his admitting neutrals into their ports, contrary to the rules of the colonial monopoly in time of peace. In this view, our superiority was a material fact among others, to show the unfairness and illegality of the trade. But the American Government in this instance warmly maintained that the relative situation of Great Britain and her enemies, in respect to maritime force, was wholly immaterial to neutral countries; and a circumstance in the case which they were neither bound, nor entitled to take at all into their consideration. The arguments drawn from that source were indignantly rejected, and an attempt was made to wrest them into a proposition, that "might gives right," and to allege that we appealed to superior power alone, as our title to interrupt the trade of neutral nations. Mr. Madison in his celebrated pamphlet endeavoured so to misrepresent the argument of the Judge of the high court of Admiralty, in the case of The Emanuel, and loudly exclaimed against the notion, that the range of neutral commerce was liable to be restrained on account of a disparity in naval power between the opposite belligerents*.

* Examination of the British Doctrine which subjects to capture a Neutral Trade, not open in Time of Peace, p. 166, 167. "The Judge, however, cannot be justly charged with a want of meaning.

In short, Sir, it has in all cases been contended, or assumed as an incontrovertible principle, by the American Government, when opposing our belligerent rights or pretensions, that the predominance at sea of this country, though absolute and extreme, as it has long been, is quite immaterial to neutral nations. If their flags protect the commerce of the weaker belligerent, and defeat in great measure the naval hostilities of the stronger, these are consequences perfectly indifferent to them. It is thought a sufficient answer to every complaint, that neutrals have nothing to do with these disparities; but have a right impartially to pursue their own commercial interests, without inquiring which of the two powers at war may gain or lose by the effects.

Without stopping to inquire how far these principles are correct, such, Sir, I say is the doctrine of the Government of the United States. Yet how strangely has it been reversed in the measure of the Embargo, and in the practical maxims at present adopted by the same Government, in its conduct towards Great Britain and France!

The Embargo, Sir, let it be remembered, was expressly resorted to as a measure of precaution alone, for the necessary protection of American ships and cargoes, which might have

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whatever may have been his difficulty, or his caution, in expressing it. It may be collected with sufficient certainty, that he meant to establish the right of Britain, and the want of right in her enemies, to interrupt neutral commerce, on the predominance of force, on the decided superiority at sea which she enjoys, and on the inferiority of force under which her enemy labours.—And thus," Mr. M. triumphantly exclaims, "we are arrived at the true foundation of the principle which has so often changed its attitudes.—It at length boldly asserts as its true foundation, a mere superiority of force! It is right in Great Britain to capture, and condemn a trade with her enemies, because her force is predominant at sea! The question no longer is, Whether the trade be right or wrong in itself? but on which side the superiority of force lies. The law of nations, the rights of neutrals, the freedom of the seas, the commerce of the world, are to depend, not on any fixed principle of justice, but on the comparative state of naval armaments!"

been exposed to seizure if allowed to proceed to sea*. Why then, we may reasonably ask, did it extend to foreign ships and cargoes?—Why were not foreigners permitted to trade in their own vessels, and at their own risque, to and from the ports of America; since this would have greatly diminished the inconveniences of the Embargo at home, and exposed no American property to peril abroad? The true, and only possible answer, was one which was fairly given by the Government itself, in that demi-official article, announcing the Embargo Act, to which I before referred. And what, Sir, was the reason of such seeming inconsistency, and needless self-denial? Why, a tender consideration for the maritime inferiority of France. A regard to that very disparity between the belligerent powers, to that vast predominancy of the marine of England, which America, as a neutral power, had disclaimed in all other cases the obligation and the right to notice. That very circumstance which she indignantly rejected, as an argument for abridging her commerce with the colonies of France, was now unblushingly assigned as a reason for subjecting her own commerce to a needless extent of distress, and starving, if she could, the colonies of England, lest the Embargo should operate less severely on us than upon France. It was argued by the President and his Ministers, that as Great Britain was mistress at sea, her commercial flag would be employed in trading with the United States, if foreigners were allowed to do so, while our enemies, being driven by our arms from the ocean, could have no such advantage. To make an equality, therefore, between us and them,

* "It may be proper to authorize you to assure the British Government, as has just been expressed to his Minister here, that the Act is a measure of precaution only, called for by the occasion; and that it is to be considered as neither hostile in its character, nor as justifying, or inviting, or leading to hostility with any nation whatever." &c. Letter from Mr. Madison to Mr. Pinckney, Dec. 23, 1807.

the Embargo was extended to foreign, as well as American shipping *.

Let it be recollected, Sir, that at this period the execution of the Berlin Decree is admitted to have been known in America; and that our Orders in Council, as I have demonstrated, were not known there. France was, therefore, if not the only aggressor, at least the only unpunished aggressor, against the commerce of the United States; for the Non-importation Act then lately enforced was a vindictive measure of no small severity towards England. France too had treacherously, as well as insolently, seized American property in contempt of her own explanations, and by so doing given the only new and immediate cause of alarm and inconvenience. Such was the case in the view of the President. Yet at the expense of the commerce of America, as well as of his own consistency, the inferiority of France on the ocean was tenderly considered by him, and a way anxiously sought to relieve her from any disadvantage that might arise from it, in the operation of that self-defensive measure which she had forced America to adopt.

Is this, Sir, natural conduct in a fair and impartial mind? If we were annoyed by the quarrels of two men very unequal in strength, and found the weaker party, instead of profiting by our efforts to keep the peace, inflaming by his audacious and malicious efforts the affray and the nuisance to ourselves, we

* Lest it should be thought that this shameful inconsistency is unfairly imputed to the American Government, the following extract is given in the words of the Paper itself: "Might not the Embargo have been better modified? might not, particularly, the vessels of the several foreign nations have been allowed to carry on trade from our ports? The plausibility of such an exception vanishes at once, when tested by its inevitable and inadmissible consequences. It would have given so decided and exclusive an advantage to one of the belligerent parties, that it would have been difficult to justify it to the other.—Great Britain having the command of the sea, and the means of conveyance, would have supplied her wants; whilst her enemies having neither, would be left destitute." National Intelligencer, Dec. 25, 1807.

should certainly feel no inclination to relieve him, at the expense of our own convenience, from the natural effects of his temerity and folly. The impotence of malice is generally regarded as an aggravation, rather than mitigation of its excesses; and some allowance is made for that temptation to abuse, which superior power naturally begets. But the American Government reverses these ordinary feelings of mankind.—France, driven from every sea, is extravagant enough to declare a maritime blockade of the dominions of her enemy; and America, annoyed in her commerce by the consequences of this impotent rage, instead of leaving the offence, to produce its own just chastisement, retires herself from the ocean, and shuts up her ports, lest Buonaparte should lose through his own folly the benefits of her trade, while his enemy is able to retain them.

Other instances of this flagrant inconsistency might be pointed out. The President in his late speech to the Legislature says: "The instructions to our ministers, with respect to the different belligerents, were necessarily modified with a reference to their different circumstances*." He proceeds to show that these different circumstances are the ascendancy of the British, and the prostration of the French marine. To accommodate his conduct to such a difference of circumstances, which as a neutral power he formerly refused to notice, he makes to France a conditional offer of association in the war against England, while to us, his offer on condition of far wider concessions, is only the preposterous one of a partial Embargo.—The same new principle will be found, from the report of the committee, to have prevented any relaxation of the Embargo at the meeting of the Legislature. That report, in perfect unison with the voice of the Government, recommends an abstinence from all the commerce, extensive though it was, which America might have safely enjoyed, lest England should consequentially, and indirectly, derive a

* Speech on the Meeting of Congress, Nov. 8, 1808.

benefit, which France from the depression of her marine could not partake. They do us the honour at last, to put us on a par with France in point of wrong. We are said to be co-temporary aggressors; and if so, the weaker party certainly seems to have the least claim to indulgence, while he refuses to recede from the aggression. But America is still ready to make the most costly sacrifices, rather than Buonaparte should feel that natural disadvantage from his folly and obstinacy, to which the inoffensive pursuit of her own neutral commerce might subject him.

Let then such conduct be compared, Sir, with the pretensions, and the reasonings of America in regard to the colonial trade; let it be compared with her systematic egotism, and disregard to all consequences, however fatal to England and to Europe, that may result from the exercise of what she deems her neutral rights, when they redound to the advantage of France; and then let any honest man lay his hand on his heart, and tell me that the Government of the United States has been impartial.

When, Sir, we see such proofs of a prejudiced and hostile spirit in the councils of America, and reflect upon the highly objectionable nature of the late overture, as I have endeavoured to explain it, there seems not so much reason to expect, as to wish for, an amicable and satisfactory adjustment. But such an event is still, I trust, by no means hopeless.

The new executive Government may be disposed to act towards us upon more equitable principles than those which the late President has so unfortunately pursued. Besides, we have here to deal with a country in which the sense of the people must decisively influence the conduct of their rulers; and already the popular voice, in several states of the Union, has very audibly pronounced against that system of measures which at present prevails.—Much artifice has been long used to deceive the free people of America, as to the true nature of the controversy between them and Great Britain; and I am

persuaded that if the facts of the case were fairly understood, they would view with disgust and indignation that subserviency to France, and that unjust and insidious enmity to England, which, to the prejudice and dishonour of the great common cause of freedom, have long marked the measures of their Government.

I am strongly encouraged too, Sir, by observing in the Papers before you the address used by the late President in communicating the proposal in question, and our rejection of it, to the Legislature. His speech at the opening of the session was naturally that to which the people at large would look for the development of his recent conduct towards the belligerent powers; and in this he took care to represent the offer made to Great Britain, in the same disingenuous manner in which it had been previously made public in America. He expressly says that it was stated to Great Britain, and stated explicitly, "that on her rescinding her Orders in relation to the United States, their trade would be opened with her, and remain shut to the Enemy, in case of his failure to rescind his Decrees also."

This gross misrepresentation of the true effect of the offer, would scarcely have been hazarded, Sir, on so solemn an occasion, if it had not been necessary, for the purpose of inducing the people of the United States at that critical conjuncture, to acquiesce in the measures of their Government. It was probably considered that the correspondence to be afterwards submitted to the legislature would be closely examined by few; and that its inconsistency with the speech, being matter chiefly of inference and argument, upon topics not generally understood, might pass unnoticed. At all events, a temporary advantage was sure to be gained; and the first impression on the public mind in such cases is of most importance. Certain it is at least, that the President did not venture fairly to disclose in his speech, the true nature of the proposition which he had made to this country. He did not tell the Legislature and the American public, that in exchange for a total

and immediate revocation of our Orders in Council, he had held out only an expectation of the future removal of part of the vindictive restrictions imposed upon our trade; much less that he had proposed to demand from France, merely some new explanations or assurances, in respect of some part only, of her wrongful and insolent Decrees. I infer therefore, Sir, that the citizens of the United States are not, in the judgment of their own Government, likely to approve the partiality and injustice of the proposal which was really made; and consequently am confirmed in the hope that the new Government will be disposed to conciliation on more reasonable terms, and such as this country may safely accept or propose.

If I thought that Ministers were at all unwilling to terminate our differences with America in an amicable way, I should be ready to vote for the motion before you; but fully believing the contrary, I regard the proposed address as a measure which would rather counteract, than promote the object which the honourable Gentleman and I, both so earnestly desire. I doubt not, Sir, that His Majesty's Government will anxiously employ the most proper means for terminating the disputes which so unfortunately exist, and restoring between us and our American brethren, a harmony to be interrupted no more.

To that happy end, let me conclude with repeating, we ought to sacrifice much.—No punctilious pride, no pertinacity of opinion, no unnecessary regard even to our commercial interests, or our belligerent rights, ought to stand in the way of reconciliation; but with the terms of the late offer, if I rightly understand them, it was quite impossible to close; for they were such as would in their consequences soon have annihilated our foreign commerce, ruined our manufactures and merchants, cut off the sources of our naval power, and brought perhaps a foreign sword into the famished bowels of the Country.

THE END.

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SUPPLEMENT.

FROM the causes noticed in an introductory page, and interruptions occasioned by public duties of another kind, as well as by professional business, much time has elapsed since the task of printing this Speech was first undertaken; and when it is at length out of the press, and ready to be published, the subject perhaps may be thought to have lost much of its importance, by that change of system which is supposed to have taken place in the conduct of Government, in relation to the Orders in Council.

The Author, however, sees nothing in this change, if it be rightly so termed, that destroys the propriety of his purpose, or materially lessens that chance of utility for the sake of which it was conceived. The new Order in Council, of April 26, 1809, promulged the 29th of that month,* does

* "Whereas His Majesty, by his Order in Council of the 11th of November 1807, was pleased, for the reason assigned therein, to order that "all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, should from thenceforth be subject to the same restrictions, in point of trade and navigation, as if the same were actually blockaded in the most strict and rigorous manner;" and also to prohibit "all trade in articles which are the produce or manufacture of the said countries or colonies:" And whereas His Majesty, having been nevertheless desirous not to subject those countries which were in alliance or amity with His Majesty to any greater inconvenience than was absolutely inseparable from carryingin to ef-

indeed recite, that in consequence of the changes which have taken place in the relations between this Country and the territories of other Powers, it had become expedient that sundry parts and provisions of the former Orders in Council should be altered or revoked; and accordingly it proceeds to revoke all such parts of those Orders, as are not by its own express directions retained.—Nor are the alterations thus introduced of a trivial kind. They are, on the contrary, of very great magnitude and importance, both to the commerce of this Country, and that of Neutral Powers. But if any new proof had been wanting to satisfy the Author, how much this great national subject is in general misconceived, and how material it is that the public mind should be better instructed upon it, such proof would be found by him in the notion which seems to prevail, that His Majesty's Go-

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fect His Majesty's just determination to counteract the designs of his enemies, did make certain exceptions and modifications expressed in the said Order of the 11th of November, and in certain subsequent Orders of the 25th of November, declaratory of the aforesaid Order of the 11th of November and the 18th of December 1807, and 13th of March 1808:

"And whereas, in consequence of divers events which have taken place since the date of the first-mentioned Order, affecting the relation between Great Britain and the territories of other powers, it is expedient that sundry parts and provisions of the said Orders should be altered or revoked: His Majesty is therefore pleased, by and with the advice of his Privy Council, to revoke and annul the said several Orders, except as hereinafter expressed; and so much of the said several Orders, except as aforesaid, is hereby revoked accordingly.

"And His Majesty is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all the ports and places as far north as the river Ems inclusively, under the government styling itself the kingdom of Holland, and all the ports and places under the government of France, together with the colonies, plantations, and settlements in the possession of those governments respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbitello and Pesaro inclusively, shall continue and be subject to the same restrictions, in point of trade and navigation, without any exception, as if the same were actually blockaded by His Majesty's naval forces in the most strict and rigorous manner; and that every vessel trading from and to the said countries and

vernment has in this new Act of State receded from its former principles; or, that the points in dispute between us and the American Government have been virtually abandoned.

If that had been the case, it would have justified the triumph which some parliamentary characters seemed eager to derive from it. It would have insured to them the signal disgrace, and the speedy dissolution, of the present Ministry; for whatever the ignorant may imagine, or the party spirited suggest, it is impossible that those great principles should ever be abandoned, while our flag is able to maintain them, without exposing the men who should so shamefully surrender the rights, the honour, and the vital interests of their country, to the indignation of an injured people. The nature of the measure might, indeed, be at first misconceived, but would soon be felt in its painful and fatal effects. The starving manufacturers, the ruined merchants, the degraded navy of England

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colonies, plantations, or settlements, together with all goods and merchandize on board, shall be condemned as prize to the captors.

"And His Majesty is further pleased to order, and it is hereby ordered, that this Order shall have effect from the day of the date thereof, with respect to any ship, together with its cargo, which may be captured subsequent to such day on any voyage which is and shall be rendered legal by this Order, although such voyage at the time of the commencement of the same was unlawful and prohibited under the said former Orders; and such ships, upon being brought in, shall be released accordingly: and with respect to all ships, together with their cargoes, which may be captured in any voyage which was permitted under the exceptions of the Orders above mentioned, but which is not permitted according to the provisions of this Order, His Majesty is pleased to order, and it is hereby ordered, that such ships, and their cargoes, shall not be liable to condemnation, unless they shall have received actual notice of the present Order before such capture; or in default of such notice, until after the expiration of the like intervals from the date of this Order, as were allowed for constructive notice in the Orders of the 25th of November 1807, and the 18th of May 1808, at the several places and latitudes therein specified. And the Right Honourable the Lords Commissioners of His Majesty's Treasury, His Majesty's Principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and Judges of the Courts of Vice-Admiralty, are to give the necessary directions herein, as to them may respectively appertain.

"STEPH. COTTRELL."

would cry for vengeance against the men who, by pusillanimously submitting to the insolent Decrees of our enemy, had exiled our commerce from the ocean.—They would soon be justly driven from their seats, and the more spirited authors of the Order of January 1807, would be called in to reassert those sacred principles, which when in office they recognised and maintained.

It may be of mischievous consequence, both here and in America, if this strange misconception of the nature of the recent Order should generally prevail. Here, it may tend to weaken popular attachment to our maritime rights in general, and to lessen the sense of their importance; to abase also the spirit of the country, and prepare it for that which is the true end of most of the zealous sticklers for Neutral encroachments abroad, and of some of them perhaps, at home, our submission to the ruler of France. In America, the same error may excite a contempt of our pusillanimity, and an expectation that we are prepared for every concession and humiliation, that the Government of the United States may think proper to prescribe. A few explanatory remarks, therefore, on the late Order, may be useful on both sides of the Atlantic.

An intimation given last autumn by Mr. Canning, His Majesty's principal secretary of state for foreign affairs, to Mr. Pinckney, the American ambassador, in reply to the overture of his Government, ought to have prepared the public mind for that modification of the Orders in Council of November 1807, which has lately taken place, and to have prevented any misconception of its general principle and object.—"It is not improbable indeed," (said Mr. Canning, in his letter of September 23, 1808,) "that some alterations may be made in the Orders of Council, as they are at present framed:—*alterations calculated not to abate their spirit, or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Eu-*

rope, and to combine all practical relief to neutrals, with a more severe pressure upon the Enemy."

Such was the expectation held out by His Majesty's Government, at the moment of declining the inadmissible proposal made onthe part of the United States, and of refusing, on such terms as were then offered, to rescind the Orders of November. Alterations in them were not promised; for, as the case stood at that period, no engagement could be made by His Majesty to the Government of America, which might be regarded as any departure from our existing system, without compromising the dignity and honour of the British Nation. But the necessity or propriety of a change in the mode of exercising our retaliatory rights being foreseen, as a practical consequence of our new relations with the Southern peninsula of Europe, and with Portuguese, and Spanish America! Mr. Canning wisely took the opportunity of avowing that such a change was in contemplation, lest our Government should be exposed, when the change should actually be adopted, to the charge of inconsistency, or versatility of conduct. If human prudence could prevent such consequences, in a case wherein the misrepresentations of party spirit are favoured by the complex and ill-known nature of the subject, this precaution might have sufficed.

Can it be doubted that in this anticipation of the recent Order, the exposition of its principle was sincere?---Not, surely, by any man who will give himself the trouble to reflect on the nature and consequences of those great changes in the political relations of the country, to which Mr. Canning alluded.

Spain and Portugal, which were our enemies in November 1807, had now become our friends. At that period, they were under the dominion, or irresistible influence, of France; now they were in arms against her.—They were then governed by the Berlin Decree, and, had become obedient, though involuntary, instruments of its execution; now, the commerce of

England, instead of being through a violation of the rights of neutral navigators banished from those countries, was openly welcomed into their ports.

A like revolution, and one more secure from the counteraction of our Enemy, had taken place on the continent of South America, and in the West India Islands of Spain.—The change of circumstances, therefore, was essential and extreme, both in the New World and the Old. In November 1807, we had no friendly port on the continent of Europe, to the southward of Sweden; while in the West Indies, and South America, with the exception of Brazil, whose character was doubtful, every place, not under our actual dominion, was hostile to us. In September 1808, those portions of the European Continent, and of America too, that are most interesting to a commercial people, were in the hands of our friends and allies.

It would have been strange indeed then, if the same system of maritime policy which was proper for one period, had been proper also for the other.

Not only our commercial interests, but our belligerent rights, were much affected by those great and unexpected revolutions. It is obvious, that the right of defending ourselves by retorting, and thereby counteracting, the enemy's war against our commerce, is more disputable when the retaliation operates inconveniently to our allies in the war, than when it incommodes only neutral nations who acquiesce in our enemy's injustice; for our allies are not chargeable with any such acquiescence. They are not nourishing with their commerce, or countenancing by their amity, the violator of the law of nations of whose aggressions we complain; but are aiding us to resist his arms, and set bounds to his unprincipled ambition.

If, indeed, our retaliation be clearly and absolutely necessary to our own defence and preservation, we have a right to demand from an ally, that he shall submit to its inconve-

niences, and even cooperate with us in it, as far as may be necessary to the desired effect. But if the danger of the hostile system, though unopposed by our retaliatory measures, be not extreme, if it do not imminently threaten our safety as well as our welfare, the interest and convenience of an ally, who shares with us the general perils of the contest, demand from us much consideration. The question, in point of justice as well as prudence, may be, whether we shall lose more by abstaining in his favour from the exercise of our maritime rights, than we gain by his cooperation in the war. In such an inquiry, the commercial benefits which we may expect to derive from the trade of our allies and their colonies, and the material, though partial frustration of the hostile Decrees, by the admission of our merchandise into the ports of Spain and Portugal, would be considerations of great importance.

Independently of these views, there was a secondary principle in the Orders of November, which could not easily be accommodated in practice, to the rights and interests of our new allies, without putting the whole efficacy of our system entirely at their controul. Having a right strictly to apply to the hostile countries the restrictions of a blockade, we might justly remit any part of that right, or modify the exercise of it; provided that in so doing we diminished, or did not increase, the pressure of our retaliatory measures on the commerce of friendly countries. Such modifications in cases of actual blockade, as in those of Cadiz and the rivers of the North during the present war, have been common, and have been regarded by neutrals as acts of concession and favour, rather than any abuse of the general right of blockade. On similar grounds, dispensations by special license from the effect of general restrictions, made a part of the late Orders in Council.

But while asserting and exercising this modifying power in our own case, we could not with justice deny the same autho-

rity to our allies, supposing them to admit and cooperate with us in the general restrictive rule. Spain and Portugal would in that case have as much right as England, has to permit trade with the common enemy, to their own subjects and to neutrals trading with their ports, either by particular licenses, or in voyages of a special description.

The consequence is plain. Relaxations might be introduced into the blockade of the hostile countries, not only different in principle from those which were adopted by our own government, but of an opposite character and tendency. Our general rules might be wholly frustrated by exceptions flowing from a foreign authority; for our cruizers would be bound to respect the license or particular order of an ally, or else we must release him from the obligation of respecting our own, and agree to conduct the war upon discordant and conflicting principles.

Difficulties of this nature had been eluded by prudent arrangements with Sweden; but with the commercial countries of the South, and their American Colonies, the same management was not easy. Interests widely different from, and even opposite to, our own, were likely to produce between us and them no small embarrassment, and perhaps serious disputes; as soon at least as their urgent and immediate want of our support and protection should cease.

It is not intended here to discuss, or even distinctly to suggest, all the various branches of this interesting and complicated subject. The design only is to show that the revolutions in Portugal and Spain gave rise to a real necessity of altering our former Orders in Council, while the difficulty and delicacy of the work were reasonable causes of delay; and this end has doubtless been sufficiently attained by the hints already offered.

In comparing the recent Order with those which preceded it, one material difference will immediately be found. The former system was from its nature unavoidably complex in

point of regulation, and the Orders of November were consequently much complained of, and not wholly without reason, as obscure. But the present substitute for them is liable to no such objection; it is brief, simple, and explicit. The local and fiscal discriminations, the exceptions in favour of voyages in which England is a middle term, and the machinery of special licenses, are all removed.

This greater simplicity is the natural effect of the rigour of the present, compared with the various mitigations of the former prohibitory rule; yet it ought to be acceptable to America. The permission to trade with the enemy through the ports of this country on certain terms, was complained of as a principal part of the injury, and even regarded as an insult to Neutral Powers, by the opponents of the November Orders. It seemed strange indeed to others, that relaxation should be construed into aggravation, and permission into constraint. It seemed strange to them, that while France is admitted by America to have a right to do any thing, and every thing, which she pleases in her own ports, however harsh and insulting to neutrals it may be, without entitling them to complain, England, by demanding in her own ports from merchants choosing to come there, in order to trade through them with her enemies, an equalizing transit duty, merely that she might be enabled, without ruin to her own commerce, to dispense with her belligerent rights in their favour, should be accused of injustice, insolence, and usurpation. However, this modification of our rights is now no longer any part of our system, and it is to be hoped that the champions of neutrality will be consistent enough to regard the change as an improvement.

The remarks already made will suggest to the reader, that whatever may be the reception in America of these retrenchments as to duties, licenses, and indirect trade, they tend much to remove difficulties, and to obviate inconveniencies, in the mutual arrangements to be made with our allies. The blockade is now to be simple and unqualified. We give no dispensations; and our co-belligerents, unless they oppose the

general principle of our retaliation on the common enemy, can claim no right to impose any dispensations upon us. They might as reasonably grant passes to vessels entitling them to violate our blockade of Havre, or Brest.

This conversion of a modified, into an absolute, prohibition, is one of the two general alterations of system introduced by the New Order. The other is an important local limitation of the blockade, or prohibitory rule itself.

The countries on which the restrictions incident to an actual blockade were imposed by the Orders of November, were all the dominions of His Majesty's enemies, and all other ports or places, though not in a hostile territory, from which the British flag was, or should be excluded in pursuance of the French Decrees. The description at that time, or soon after, comprised every part of the continent of Europe, Sweden excepted, as well as all the hostile colonies. It would now not comprise Spain or Portugal or their colonies, or any part of Austria or Turkey.

But the local extent of the blockade is now made considerably less than it would be under that political description. By the New Order, the restrictions of blockade are imposed on no country of the Continent further North than the river Ems, though Denmark, Norway, and Russia, are hostile, and though Decrees exclusive of our commerce are in force in all the ports of the North Sea and the Baltic, those of Sweden only excepted. In the South, not only Spain and Portugal, though partly in the possession of the enemy, but the Southern parts of Italy, though wholly under his dominion or control, are exempted. The countries to which our retaliatory prohibitions in the nature of a blockade apply, are only France, Holland, and the kingdom of Italy, and the Colonies of the two former powers, the parts of the world pre-eminently under the government of the grand enemy of the commerce of England, as well as of the repose and independency of nations.

By this new proof of the moderation of the British Government, an ample field is left open for the trade

of neutral and friendly countries. In no part of Asia, Africa, or America, the very few yet unconquered settlements of France and Holland excepted, will our retaliatory measures impose any restraints on neutral commerce. In Europe the Neapolitan and Papal territories, and every other country in the South of Italy, all the islands of the Mediterranean, and the Eastern Archipelago, whether hostile or friendly to us, the Hanse Towns, Denmark, Norway, Russia, and generally the whole coasts of the Baltic, though under the dominion of our enemies, enjoy the same exemption; except that as the Order of January 7th, 1807, remains in force, neutrals cannot lawfully trade from one of the ports of France and her allies, to another of those hostile ports. Sweden, Spain, Portugal and Austria, being our friends or allies, are of course as open and free to their own or neutral navigation as the ports of Great Britain herself. In short, no restriction remains except on the trade of France, and of countries so connected with her both geographically and politically, that the freedom of their commerce would wholly frustrate our necessary pressure on the trade of France herself.

By this very liberal retrenchment in the exercise of our belligerent rights, our new allies, as well as neutrals, are relieved from all the inconveniences and difficulties, from which we can, in our altered circumstances, compatibly with self-preservation, relieve them. The colonies of Spain and Portugal will obtain foreign markets for their produce on the continent of Europe, which, while our Orders of November existed, they could not easily have found; and the trade of the Baltic, and the North of Europe in general, will be open to them, and to their Mother-Countries too, as well as to the American States. We have every reason, therefore, to promise ourselves that they will cheerfully acquiesce in, and assist us in giving effect to, our retaliation on the common enemy, till he shall choose, by desisting from his injurious and extravagant system, to restore to himself also the benefits of neutral navigation.

Such are the general nature and tendency of the Order of April 26, 1809. In respect of its execution His Majesty's Government has adopted rules of the most abstemious and liberal kind. For purposes of immunity to neutrals, the Order is to have immediate operation from its date: for purposes of restriction, on the other hand, it is not to operate until after actual notice of it shall have been received by parties violating its prohibitions; or, in default of such notice, until periods remote enough to make their knowledge of it matter of irresistible presumption. If neutrals are taken in a voyage which was commenced, and prosecuted before the date of this Order, contrary to the Orders of November 1807, but which is now permitted, they are to be restored. The new Order in that respect, operates as a release of the penalty already contracted. Though both the captor and captured are ignorant of the new law, the one is to lose the benefit of the rule under which he acted, the other to have the benefit of a rule on which he did not calculate, notwithstanding his intention to violate our belligerent rights. But in cases of voyages, which were legal in their commencement under the former Orders, and have become illegal under the present, a different rule is prescribed; there the new law is to have no force until actual or presumptive notice shall have been received by the neutral.

In these provisions indeed, His Majesty's Government may possibly be said to have only followed the ordinary liberality of the British Admiralty in regard to actual blockades; but this is a case to which, without any injustice or inconsistency, different principles might have been applied. The rights of a belligerent founded on an actual blockade cease not by his mere will, but by the raising of the blockade itself, whether from necessity or choice; and therefore though the sailing for a blockaded port with intent to violate the law of war by entering it, as well as the sailing from any such port before the blockade has ceased, amounts in law to an offence inducing forfeiture, it has been thought

harsh in either case to exact the penalty by captures made after the blockade has been raised. The great end of prevention, then, no longer demands such an exercise of the rights of war over the subjects of a friendly state. But in the present case, our rights which arise from the injurious system of the enemy, and are strengthened by the acquiescence of the Neutral, have not been suspended or interrupted for a moment. The partial repeal of our retaliatory prohibitions therefore was, as far as respected Neutrals, matter of pure discretion; and we might justly have held them to the legal effects of any delinquency incurred under the old rule, though we could not punish them for transgressing the new, until they had notice of the gratuitous change.

With peculiar propriety might we have taken this course against American vessels bound to or from those ports of the Continent, to which the former restrictions applied, and which are opened only by the recent and voluntary change in our retaliatory system, when such vessels were found to have sailed under the authority and subject to the regulations of the late American Act for raising the Embargo: for the Bill which was noticed in the preceding sheets as depending in the legislature of the United States has since passed into a law; and in that very partial and offensive form in which it was orignally proposed*. America, in direct opposition to her own principles as well as to our rights, has authorised her merchants to trade with those parts of the Continent in which the Berlin Decree is expressly and rigidly inforced, while she still perseveres in her measures of resentment against all the territories of Great Britain.

Such conduct might well have justified not only our withholding the indulgent regulations as to notice contained in the late Order, but our making a distinction between this Neutral

* See the note in p. 100, which was printed before the final adoption of this measure was known in England.

power, and our allies, in respect of the local relaxations of the prohibitory rule itself.

The British Government has however taken a more abstinent and conciliatory course in the late Order of Council; and let us hope that such conduct will be rightly appreciated by the citizens of the United States.

It is not strange that a measure so indulgent, should be generally approved by the American merchants and agents resident in England. The most eminent of the gentlemen of that description who opposed the Orders of November, have openly professed their satisfaction at this important change. May the same sentiment prevail on notice of it beyond the Atlantic! Or, what would be still better, may an amicable arrangement there, have already terminated all the differences between us and our American brethren, on terms that will involve a complete revocation of our retaliatory Orders, and impose on America herself, by her own consent, the duty of vindicating effectually the rights of neutrality against the aggressions of France!

FINIS.

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